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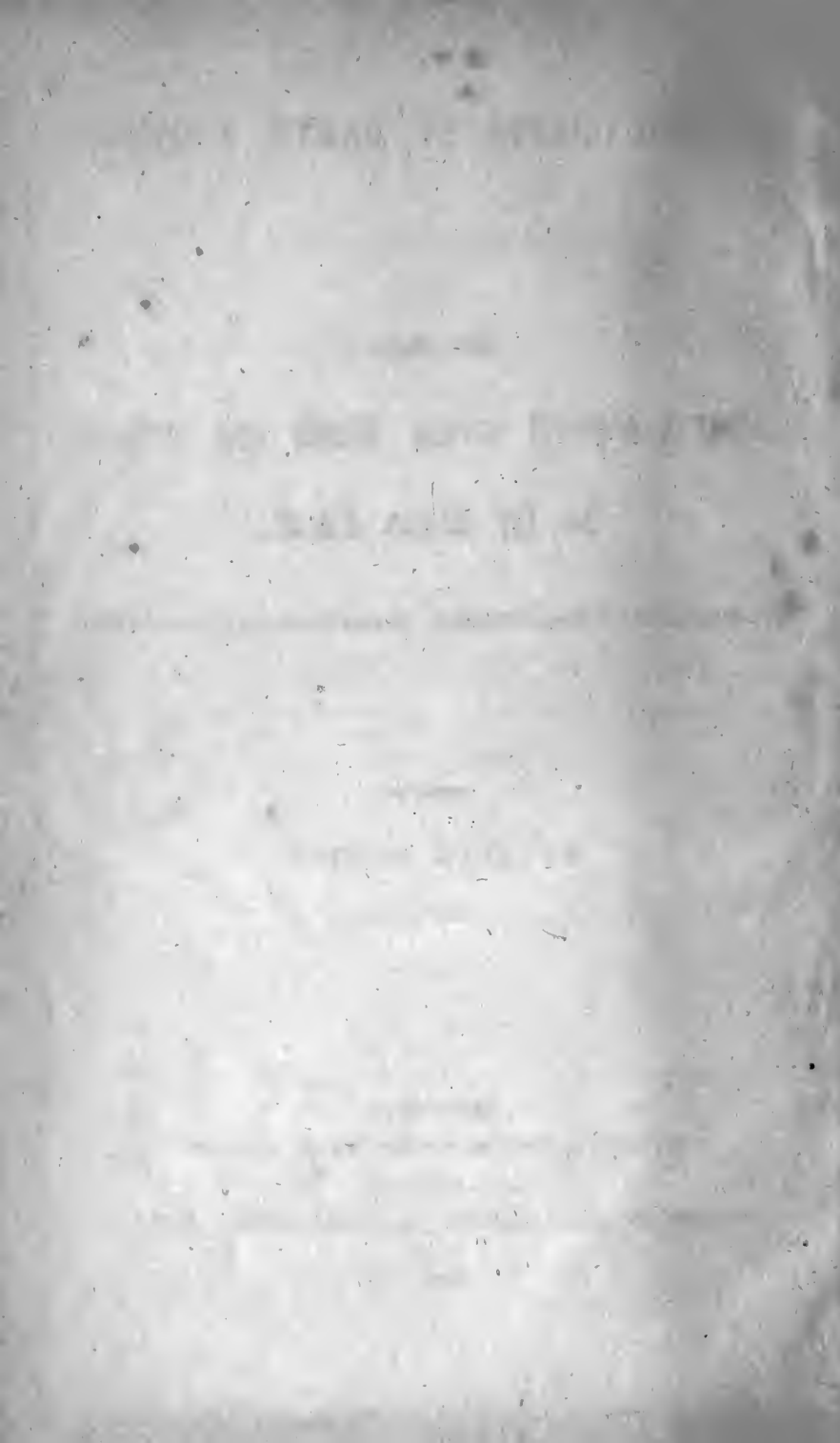
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# BAPTIST CHAPEL, ST. MARY'S, NORWICH.

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*The Suit—*

Attorney-General versus Gould and Others,

In the Rolls Court:

ITS ORIGIN, THE PROCEEDINGS, PLEADINGS, AND JUDGMENT.

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EDITED BY

WILLIAM NORTON,

ONE OF THE TRUSTEES.

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# BAPTIST CHAPEL, ST. MARY'S, NORWICH.

THE SUIT—ATTORNEY-GENERAL *v.* GOULD AND OTHERS,

*In the Rolls Court.*

ITS ORIGIN, THE PROCEEDINGS, PLEADINGS, AND JUDGMENT.

EDITED BY WILLIAM NORTON, ONE OF THE TRUSTEES.

## PART I.—INTRODUCTION.

THE friends of the plaintiffs in this cause, wish the events out of which it arose, and the substance of the pleadings, to be placed on record. The facts are admitted, on both sides, to be of great importance. They affect the very existence of many Baptist churches, and the tenure of almost all Baptist chapels which are not of very recent origin.

This appeal to a Court of Chancery was rendered necessary in order to prevent, if possible, the alienation of this chapel from those who hold the very sentiments, and adhere to the very practice of the founders of the trust, as to a rule which they deemed *unalterable*. It arose out of a breach of the *Strict Baptist Constitution* of the Church, by the adoption, in part, of the practice of *free communion*.

The principle of *strict communion* is that, *in addition to proof of faith in Christ, conformity also to divine ordinances, such as Baptism and the Lord's Supper, has been made by Christ fundamental and essential to church communion*; that is, *to the equal and common enjoyment of all privileges belonging exclusively to a Christian church, of which the Lord's Supper is one*. Also that baptism is *prerequisite* to the Lord's Supper, and all other privileges of church communion.

The principle of *open, mixed, or free communion*, is that *conformity to divine ordinances, such as Baptism and the Lord's Supper, is not fundamental and essential to church communion*; that the *only* thing fundamental to it is a state of heart and life which justifies the opinion that a person is a *true*

*believer* ; and that a church is *bound* to receive all applicants who, whatever may be their nonconformity to the will of Christ, are nevertheless deemed by it *true believers*. Most of those who have advocated this principle, have held, in common with the advocates of strict communion, that the Lord's Supper belongs *exclusively* to the visible church of Christ, and have differed from them chiefly as to who ought to be esteemed members of that visible church, and received as such to the Lord's Supper.

Neither of these two systems, can *consistently* be adopted, in *part* of its requirements only ; nor can they *consistently* be *both* of *them* practised by the same church, at the same time. Each is advocated by its friends as of *divine authority*, and as therefore in every part of its requirements *binding* and *inviolable* ; and each requires that the other should be *abandoned*, as a violation of God's will. Both sides agree with Mr. Robert Hall, when he said :—"He who alters the terms of communion, changes the *fundamental laws* of Christ's kingdom. He assumes a *legislative power*, and ought, in order to justify that conduct, to exhibit his credentials, with a force and splendour of evidence, equal at least to those which attested the divine legation of Moses and the prophets."—*Reply to Kinghorn*, 1818, p. 255.

But it will be seen that the proceedings of the free communion members of this church have not been in accordance with these rules. They have adopted *both* systems at once ; the one, said to be *binding*, and the other, said to be "*schism*." They resolved to admit to the Lord's Supper on the *first* Sunday, and at any times during the month except one, *all believers* ; but, once a month, the free communion members proposed to exclude all but Baptists, and thus to do even what they condemn as contrary to God's will, if the strict members would consent to come. Those members declined, and then, though not denied to be *true believers*, their refusal was made ground for proceeding to exclude them from the church ; yet free communion is the rule that all believers ought to be *received*, and when received, retained. This proposal was, as to the free communion members, an *inconsistency* ; and, as to the strict members, *inequality* of privilege, and almost certain *extinction*. For no new converts could join the church thenceforth without joining in a free communion service at the time of their admission to *membership*.

The circumstances of this case do not stand alone. What has occurred at Norwich has occurred in many places ; and the general likeness of the measures taken implies that these means are approved, and accepted, as among the best for changing the constitution of Strict Baptist churches.

The affidavits made in this suit by many of the leading advocates of free communion, and the countenance and co-operation given by others of them, either to the suit or to the proceedings out of which it arose, alike prove the extent of this approbation. Among those who have made affidavits on the part of the defendants, are the tutors of the three colleges ; Mr. Crisp, and Dr. Gotch, of Bristol ; Dr. Acworth, Mr. Green, and Mr. Pottenger, of

Rawdon ; and Dr. Angus, and Dr. B. Davies, of Regent's Park, London. Mr. Lepard Smith, Mr. Lush, Q.C., and Mr. Joseph H. Allen, have done so *as treasurers* of the Baptist Fund ; three secretaries of Baptist societies, Mr. Trestrail of the Baptist Foreign Mission, Mr. Middleditch of the Baptist Irish Society, and Mr. Christopher Woollacott (a Strict Baptist), of the Baptist Building Fund, have also all done so *as secretaries of those societies*. Dr. Edward Steane, Dr. Thomas Price, Dr. John Leechman, and Mr. Birrell, of Liverpool, have done so too. Dr. Joseph Angus, Mr. William Landells, Mr. J. H. Hinton, the Hon. Baptist W. Noel, Mr. William Brock, Dr. Thomas Price, Mr. Christopher Woollacott, and Dr. Edward Steane, all wrote to Mr. Gould, sanctioning his intention to *exclude* the Strict Baptists from the church ; and were, in fact, approvers of that course of conduct which left no means for the defence of the threatened members, but appeal to Chancery.

If the whole of the papers in the suit were printed, they would make a volume, which few would read. The object here is to give, in a *condensed* form, whatever is *material*, and to take slight notice of what is not. When documents, therefore, are referred to, no more of the exact words can be given than those most material, except in special cases.

The *object* of the defendants and their friends, did not relate to *this church only*. Their aim was to establish a *precedent* for the whole kingdom ; to show that, if *like means can be used*, the limitation of communion to Baptists may be put an end to wherever it exists, unless the trust deed of the chapel requires that limitation *as to the Lord's Supper, in express terms*. Their wish is to show that by such means the Strict Baptist members, if they do not leave, may be either excluded, or placed in a position so degraded and powerless, that they will at once become *virtually*, and must soon be *actually* extinct. Mr. Gould, in a discourse delivered on June 30, 1860, the first Sunday after Judgment was delivered by the Master of the Rolls, speaking of the time when the Bill was filed, said :—

“As soon as it was possible to do so, a few friends assembled together to determine the question, whether the suit should be defended or not. After an anxious deliberation, it was resolved to defend it, *upon the special ground*, that it would raise, and might finally dispose of the question, *for every Baptist congregation* whose trust deed, like our own, contained *no clause limiting* the action of the church in reference to communion.”

It is not denied by the defendants that *this deed does* limit the action of the church as to *full membership*, and they seem to think that their *not acting* as to membership on the free communion principle acted on by them in the Lord's Supper, is necessary to the object pursued. Yet, if the deed limits *membership* to Baptists, it must have been *intended* to limit the Lord's Supper to them also. For no distinction as to *principle*, is proved to have been *then* made between membership and the Lord's Supper. Admission to

the Lord's Supper was held to be a privilege *peculiar* to church members, and therefore dependent upon the *same principles* as membership. If, however, by asserting a *distinction*, as to principles of communion, between membership and the Lord's Supper, the constitution of Strict Baptist Churches can be destroyed, events prove that the assertion is likely to be made. Few trust-deeds are supposed to be more express as to the Lord's Supper than this Norwich deed, and *every Strict Baptist church*, therefore, needs to be well aware of the course which has been pursued by the free communion members of this church. Should wisdom, forethought, and decision, such as are taught by the history of this case, be duly exercised, it may be possible to stop the very springs and fountains of an evil, from the effects of which, in its flood stream, not even a *favourable* decision in Chancery is sufficient to defend.

The point at issue is this, Is *free communion* compatible with what this church deemed *fundamental* to its own constitution, faith, and worship, when, in 1746, it placed the property in trust for its own sole use? This is the question which a Court of Chancery had to decide: and in reading the evidence and pleadings, it is to this point that attention needs to be directed. How far the Judgment is an answer to this question, is considered in the remarks which follow it. The words of the trust-deed declare the property to have been "purchased for and intended as a place of public worship for the said congregation of Particular Baptists within the city of Norwich, the several members of" which "advanced and paid the money for the purchase of the said premises," and put them in trust for that and "no other purpose whatsoever." The question relates *partly*, therefore, to what was essential to constitute this church a "congregation of Particular Baptists." Congregation is admitted by the defendants to have been used in the sense of *church*; and the beneficial use of the building was *at the least*, therefore, limited to persons who held Particular Redemption, were Baptists, and formed a part of this church. But this was not the *whole* question. This body professed to be not *merely* a "congregation of Particular Baptists," but a congregation or church of *Christ*; it professed to hold the doctrines, observe the worship, and administer the laws which, *in its view*, *Christ had revealed and given*. Different congregations of Particular Baptists, are proved to have differed in some points deemed by them respectively *essential* to true worship, though they were alike in what was necessary to make them congregations of Particular Baptists; and as this church was independent of all other such churches, and formed its own views of what was fundamental, those views cannot be *fully* ascertained, except by evidence *relating to itself*. It was for the "worship" of *this* congregation, so far as it differed fundamentally or unalterably even from that of other congregations of like name, that the property was put in trust; and the *full* question therefore which the *express words* of the trust-deed make it binding to ask, is this:—What did *this* church deem essential to, or unalterable in, its *own* constitution, faith, and worship?

## PART II.—ANTECEDENTS AND CAUSES OF THE SUIT.

THE date of the original trust-deed of the chapel is Nov. 24, 1746.

From May 20, 1790, Mr. Joseph Kinghorn was pastor of the church, till his death on Sept. 1, 1832. Mr. Wm. Brock was pastor from 1833 to 1848. Mr. George Gould has been so since 1849.

Mr. Robert Hall published his "Terms of Communion" in 1815; Mr. Kinghorn replied to it, and became the leading advocate of strict communion.

Some remarks made by Mr. Hall in the course of this controversy, throw light on circumstances connected with the origin of this suit. He suggested means by which a silent revolution [might] be effected \* in churches limiting communion to Baptists. These related chiefly to *ministers*, and *majorities*; to the latter as fixing the time when, in those churches, members *opposed* to strict communion could no longer, in his view, **CONSISTENTLY** practise what they condemn.

"The people," he said, "never fail, sooner or later, to follow the impulse of their *public teachers*."† "With a change of sentiment in them, it [strict communion] will gradually disappear."‡ The advocates of free communion have paid great attention to this point. They have, by degrees, secured in *all* the English colleges for Particular Baptist ministers, free-communion tutors. At Mr. Kinghorn's death, there were few young ministers in them who adhered firmly to his views.

While adverting to the duty of free communion Baptists to practise free communion *when they are a majority* in a Strict Baptist church, he said that he thought the subject "*intimately connected with the eventual success of the cause in which [he was] embarked*."\* He remarked that when he wrote, it was the custom for Baptist

churches, "whatever [might] be the sentiments of the *majority*, to continue the practice of strict communion, in *almost every instance*, where the opposite system [was] incapable of being introduced with a *perfect unanimity*." That is, they would not deprive even a minority of any part of their rights as members, whether as to communion or the use of their chapel. They would probably rather have *withdrawn* from the church than do this. But Mr. Hall condemned this course; he said, that if the *majority* are "convinced of the *right* of all genuine Christians to communion," and yet "*refrain from acting agreeably to their avowed principles, and consent to withhold* from another class of their fellow-Christians what they consider as their *undoubted right*," that they "in reality place error on the throne, they prostrate themselves before it." If so, they do it not *only* when they are a majority. He who acts not on his principles, or withholds from another his "*undoubted right*," is inconsistent, even when one of a few. But if he be one of a few, in a Strict Baptist church, who have such convictions, he *must*, to be consistent, *withdraw*, and found or join a body which acts, as he thinks *he* ought to act as one of its members. This course, it is true, would prevent "the success" which Mr. Hall expected from the action of a *majority* of such persons; because if, when in a minority, they withdrew, a majority could not arise. But suppose a majority to have sprung from *sudden* conversion to free communion, even it could *withdraw*, and would not *need*, in order to be consistent, to injure the minority. Mr. Hall indeed assumed, that the course he advised would injure no one, but a little reflection furnishes proof that this is not true.

"Whenever," he said, "there is a decided majority in a church...let them admit pious Pædobaptists without hesitation, and *let those whose principles*

\* Reply to Kinghorn, 1818, Pref. xv—xix.

† Reply to Kinghorn, 1818, p. 274.

‡ Short Statement, 1826, Pref. vii.

deter them from joining in such a communion, receive the Lord's Supper apart, retaining, at the same time, *all their rights and privileges unimpaired.*"\*

But this is impossible. One duty of church members is to *administer the laws of Christ's kingdom.* Each is one of a body of judges, who have to *interpret and enforce* those laws. If an upright judge be so situated that he must give his *silent consent* to what the statute law condemns, how can he with efficiency fulfil the duties of his office? The nobler his mind, the more he recoils from filling a place as a judge, in which he cannot enforce what is right, and must by his *presence seem* to enforce what is wrong. Just such is the case of Strict Baptists in a church which gives the Lord's Supper (admission to which is in charge of the members), to the unbaptized.

How, also, with consistency, could Mr. Hall's "majority" *concur at any time* in withholding from Pædobaptists what he calls their "right;" as it would do in the service which he recommends to be set apart by it for the strict members. For if strict communion be wrong, it never can be right to sanction it?

"By this means," he said, "a silent revolution may be effected in our churches unstained by a PARTICLE OF VIOLENCE OR INJUSTICE."\* How different the reality is, from this bright vision, will be seen from the facts of this Norwich case. The revolution can scarcely be said to have been "silent," nor yet without something of "violence" and "injustice" towards the Strict members.

The stream of events which finally led to the suit was as follows:—

At Mr. Kinghorn's death the church failed to meet with a decidedly Strict Baptist who seemed to it fit to be its pastor. This arose in part from the state of the colleges, and the scarcity of young men of good education who held strict communion. Mr. Brock preached with great acceptance, and was invited on probation. He stated that, as to communion, his *views* "were directly opposite" to those of Mr. Kinghorn, but undertook the pastorate on the proviso

made by the church, "not to moot the question of communion at St. Mary's."—*Aft. W. N., ph. 22. Minute in Church Book, 1833.*

Nov. 14, 1836, the pastor read a draft letter, with *altered* heading, for dismissing a member to a church "open in its membership and communion." Mr. S. Wilkin and others opposed the measure as likely to lead to the introduction of open communion.

March, 1838. A member complained of some deviation from the pledge Mr. Brock had given. On April 30, the complaint was considered, the pledge is said to have been read, and it was again understood that he was not to introduce the practice of open communion.

For years before 1845, Mr. Brock administered the Lord's Supper in his own house, to persons who had not been immersed after faith.—*Ch. Bk. May 26, 1845.*

About March, 1845, he addressed a letter to the members of the church, announcing his intention to commence a Lord's Supper service *in the chapel*, on the *third* Lord's day of each month, in which *those members* who might think with him on the communion question would be "welcome to join, *in company with such friends*, beloved in the Lord, as [did] *not yet see it their duty to be immersed.*"

In this letter he said that a person who had been accepted for membership was at that time debarred from the Supper, because "ill health prevented him" from being immersed. In cases of ill health, communion was at that time *deferred*, till return of health permitted immersion.

As to *his new service*, he said:—"I should be exceedingly filled with joy to see any Christian brethren, who may worship with us in the sanctuary, welcomed to our sacramental service on the first Lord's day in the month... I cannot, however, forget the fact, that there are some among you who could not consent to the admission of the unbaptized. Were they to come, you must, at the imperative dictate of conscience, go away. Now, for your consciences I entertain the same respect as for my own. Far from me, beloved, be the desire to tempt you to compromise your principles; or, failing that, to punish you for holding those principles fast."—*Exhibit, K. 1.*

TWELVE TRUSTEES were then living, but only two of them, Mr. S. Wilkin and Mr. W. Norton, were supposed to be likely, at the request of the protesting

\* Reply to Kinghorn, Pref. xv.—xix.



members, to endeavour to prevent the use of the chapel for a service felt by those members to be an infringement of the *constitutional order*, and the *authority* of the church, and to be in danger of *alienating* the benefits of the trust from some of the members entitled to enjoy them. These two trustees were early informed of the intended service. Mr. Norton wrote on April 10th to Mr. James Cozens, the elder, a senior trustee, respecting it; and Mr. Wilkin and Mr. Norton resolved to take the opinion of some able counsel. Mr. Cozens did not reply; Mr. Norton wrote again on April 18th. On April 21st, the day after the new service had been first held, Mr. Cozens acknowledged both letters, declined to take "*any part in such proceedings*," and said, "Notwithstanding the risk of being thought 'uncourteous,' I was determined Mr. Brock should have the opportunity of attending to the service which he had had for some time in contemplation, before I gave any reply to your extraordinary inquiry, the purpose of making which is more surprising still."—*Exhibit*, P. 2.

RICHARD T. KINDERSLEY, Esq., now Vice-Chancellor Sir R. T. Kindersley, was the counsel before whom Mr. Wilkin and Mr. Norton laid a statement of the case, accompanied with an abstract of the last trust-deed of 1832. His opinion, dated April 30, 1845, was this, "that the admission of such persons to communion in the chapel in question, is a violation of the trusts and purposes upon which the chapel is held."

Mr. JOHN S. BREWER, a highly esteemed member of long standing in the church, and who had been a deacon of it since January 1840, drew up a protest after the first service had been held, against the repetition of it. This protest was signed by forty-two men members, and presented to Mr. Brock. It expressed much grief that such a service had been "encouraged and superintended" by himself; and gave as reasons for this protest, that in their view, "unbaptized persons are not authorized" by Christ to observe the Lord's Supper; that "the peace and prosperity" for which the church had been "for so long a time distinguished," would, "by this new order, be exposed to great peril." They denied that any "individual member, or any number of members, unauthorized by the whole church, [had] a right, according to the constitution of [their] society, to receive to the communion-table any person whatever; because, by so doing, he or they

[did] infringe on [the] equal common right" of the members, &c. They said, that such a practice was "needless in such a city as Norwich, which supplies accommodation for almost all modifications of religious opinions;" and that they were "persuaded, both by the language of the trust-deed, and the usage founded thereon, that the benefits of the building and the endowments are the exclusive rights of Baptists," and that the new practice had "a direct tendency to alienate these benefits from them."

May 26, 1845. The pastor referred at church meeting, to a subject by which it appeared, the peace of the church had been disturbed. He spoke of the service which he had instituted for the especial benefit of unbaptized worshippers, and which had then been attended to twice. He read the above Protest against the repetition of it, and his Reply. In his Reply, addressed to the protesting members, he said, "You are not asked to approve or sanction the communion of the unbaptized at the table of the Lord." "Your own rights and privileges as members of the church in this place, are left altogether untouched." "You are not identified with the practice of open communion at all." Also that as he understood the case, "the church was not involved." He intimated that if the church adopted any resolution *condemnatory of his practice*, he should certainly leave; he could not, with the feelings he then had, become or continue pastor of a church which should prevent him from administering the Lord's Supper to persons unbaptized. He stated that several who then worshipped in the chapel would gladly be immersed, but from physical causes were unable to be so, and he did not believe with the protesters, that "they had no right to fellowship at the table." Two members, Mr. Hastings and Mr. Guyton, proposed notwithstanding, a vote of censure on the conduct of the pastor, but as the protest itself expressed disapproval of it, the motion was withdrawn on condition that the protest should be entered in the Church Book. This proposal was adopted. It was resolved that the Reply be entered there also.—*Ch. Bk.* and P. 2.

Some of the members ceased to observe the Lord's Supper with the church. The whole of the members of the church were responsible for the right observance of it at all times, and for the fitness of the persons received to it; and those referred to, feeling that the church was neglecting its duty in these respects,

thought themselves *bound* to protest against that neglect and also against the new practice, by ceasing to commune with the church till it should put a stop to the practice.

June 7, 1845. A meeting of the trustees. All were present but Mr. Allen, Mr. Cozens, jun., and Mr. Wilkin. Mr. Norton read the case which had been laid before Mr. Kindersley, and the opinion given. He proposed that if the trustees were not satisfied, so many statements of the case be drawn up, as different opinions might require; that in these nothing be stated which any denied to be fact, and that they be laid before two eminent counsel. The trustees would neither stop the new practice, nor take another opinion.—*W. N. Note Bk.*

Aug. 1845. Twenty of the men members requested in writing, that each and all the trustees would stop the new practice, as being opposed to both letter and spirit of the trust-deed.

Aug. 23, 1845. A meeting of the trustees was held, summoned about Aug. 19th, by Mr. Cozens, senior, in consequence of the above request. Mr. Allen and Mr. Norton were absent. The meeting requested two solicitors, Mr. Thomas Brightwell, and Mr. John O. Taylor, to draw up a case to be submitted at an adjourned meeting, that day week.—*Exhibits, P. 2; K. 14, 15.* Mr. Brightwell is not a Baptist, but at one time attended this chapel. He has put in an affidavit on behalf of the defendants in this suit.

Aug. 30, 1845. The case which had been drawn up was read, and somewhat altered; but not so as to state that absence from the Lord's Supper, occasioned by the new practice, would probably lead to the exclusion of several Strict members. There was afterwards, however, sent, as part of the case, to Richard Bethell and John Romilly, Esqrs. (now Sir R. Bethell, the Attorney-General, and Sir J. Romilly, the Master of the Rolls), a copy of the documents read at the church meeting on May 26, 1845, which showed that Mr. Brock would leave if the new practice were stopped. Mr. S. Wilkin in a printed note, dated April 20, 1846, addressed to the trustees, said that the case laid before counsel appeared to him in this "very remarkable particular, altogether at variance with the instructions given by [the trustees] on the 30th of Aug., 1845," and that as they declined to inform counsel that "the secession of a considerable number of members would probably result from the continuance of

the new service," they surely would not, "had it been proposed to [them] to do so," have informed counsel that Mr. Brock "would leave, if the service were stopped." Mr. Norton had on Aug. 30, 1845, declined to consider himself bound by the result, unless all things should be conducted with perfect fairness.—*Exhibit, P. 2.*

January 20, 1846. In the *joint opinion* given by Mr. Bethell and Mr. Romilly, they said:—"No directions are given touching the election of the minister, or the discharge of his duties; there is, therefore, in our opinion, no obligation on the trustees to interfere; and their permitting the minister to act as he proposes to do, will not amount to a breach of trust."

March 30, 1846. Two members, Mr. Spalding and Mr. Nash, moved at church meeting that "the union of the unbaptized with the members of this church in the observance of the Lord's Supper" should be thenceforth "discontinued." The proposal was set aside by a vote in favour of the previous question.

June 1, 1846. Messengers were appointed by the church to visit Mr. THOMAS KELF, and ask why he had been so long absent from the Lord's Supper. He informed them, that the free communion service was the sole cause of his absence; that if it were discontinued he would return to the Lord's table; and that he did not intend to withdraw from membership.—*Letter from T. Kelf, Sept. 21, 1846. Exhibit, P. 2.*

Aug. 31, 1846. The messengers reported to the church that Mr. THOMAS KELF could not attend the Lord's Supper while the free communion service lasted. His place was then "declared vacant," that is, he was excluded from membership; the church, it is said, "regarding his membership as relinquished by his own act."

This act of exclusion was a violation of the principle of free communion. Mr. Robert Hall says, in his Reply to Mr. Kinghorn, p. 244, "All genuine believers....are as much entitled to the benefit....of admission into the church....as though they had been mentioned by name." If entitled to the benefit of admission, they must also be to that of retention in it. But it was not alleged that Thomas Kelf was not a Christian. He was excluded merely for having conscientiously omitted the Lord's Supper. And those who advocate the reception to communion of those who conscientiously omit baptism, excluded this Chris-

tion from *all communion* because he conscientiously omitted the Lord's Supper.

Mr. Norton had a strong impression that if it were possible to present the whole facts of the case so clearly as to make them well understood, the opinion of Messrs. Bethell and Romilly would, in all probability, coincide with that of Mr. Kindersley. He prepared a case comprising a copy of the original, and an abstract of the last trust-deed, also the case laid before Mr. Kindersley, and his opinion, and that laid before Messrs. Bethell and Romilly, and their opinion; together with remarks on them, and a fuller statement of facts. He mentioned also the exclusion of Mr. T. Kelf, on Aug. 31, 1846. In the course of his remarks, he said, that the question was whether "it is not a *violation of the trust*, for persons who are *not members* of that or any other Particular Baptist congregation or church, *nor Baptists*, to be united at the discretion of the pastor of that church, with its members, in that place of worship, in the enjoyment of one of the *peculiar and distinctive* privileges of the church, and to the *exclusion* from the church of *some of its own members who adhere to its ancient and original practice*." Of such exclusion, he said, "an instance had already occurred."

JOHN EVANS, Esq., a barrister well versed in dissenting usages as well as law, was first consulted on these documents. He died while the case was before him, but had written on the deed these remarks, "The deed of 1746 must prevail." "The original trust was for A SPECIFIC EXISTING CHURCH OR CONGREGATION, and defines nothing in way of condition. Tacit condition that THE ACTUAL CHURCH MUST RETAIN ITS IDENTITY IN ALL ESSENTIAL PARTICULARS."

If therefore immersion after faith was in *this church* in 1746 *essential* to communion with its members, the new practice was in Mr. Evans's view a breach of trust.

W. R. A. BOYLE, Esq., was next consulted. His opinion was, that it was "the duty of the trustees to see that the practice complained of is put a stop to."

JOHN ROMILLY, Esq., before whom the papers were next laid, said, in an opinion dated May 1847:—"I think that the admission of persons who have not received adult baptism by immersion, to participate in the communion of the Lord's Supper is contrary to the tenets of the Particular Baptists, and consequently that the continuance of the

practice in the meeting-house, St. Mary's, Norwich, is a violation of the trusts on which the chapel was originally founded. ...My opinion is derived from a careful consideration of some documents which were not before me, when I concurred with Mr. Bethell in the opinion we gave in January 1846, and also from a more full consideration of the early history of Baptist congregations."

RICHARD BETHELL, Esq., gave, in union with Mr. Boyle, on June 13, 1847, a like opinion. They said,—"Adverting to the history of the times when this trust was created, and to the constant usage, which, as we are informed, has prevailed in this particular church down to a very late period, we are of opinion that the church of St. Mary's, Norwich, was intended for the benefit of persons holding the principles of strict communion; and upon the authority of Lady Hewley's case (7 Sim. 309, Cl. and Fin.) that the benefaction cannot be diverted from its original purpose, unless the practice complained of has existed for twenty-five years, so as to be within the protection of the Dissenters' Chapel Act, 7th and 8th Vic., c. 45, which we are informed is not here the case."

Thus, Mr. Bethell and Mr. Romilly both reversed their former decision, and were now of opinion that the new practice was a breach of trust. But the opinion of the latter rested on a ground more general and less peculiar to this church than that of the former; that of Mr. Romilly rested on "the tenets of the Particular Baptists" in general; that of Mr. Bethell upon the constant usage of "*this particular church*," in connection with "the history of the times" when the trust was created. The latter opinion mentioned the "intention" of the founders of the trust as the point to be determined; and on the ground that *this church* had always practised strict communion, as a binding duty, decided that it was its intention that it should still be always practised. The trust was not created either by or for all Particular Baptists. So far, indeed, as they were all agreed, the intention of this church may be inferred from the tenets of any and all Particular Baptists of the time, but no further. This church differed from some Particular Baptists as to what was essential to communion; and on this point, therefore, the intention of this church must be decided by the tenets and practice of "*this particular church*," of this "specific congregation."

After receiving these opinions, Mr.

Norton printed them and the documents on which they had been given, in a pamphlet of thirty-two pages, and sent a copy to each of the trustees. He afterwards wrote to several of them asking them to unite in measures to stop the new practice; which had now been pronounced by the two eminent counsel to whom they themselves had referred the decision of the question, to be a breach of trust.

June 28, 1847. Church meeting. *Ten* other strict members excluded. Their names were, ROBERT GUYTON, JAMES WILLIMENT, WILLIAM WHITE, WILLIAM OWEN, WILLIAM PRESS, EDMUND HASTINGS, JOHN SPALDING, ZECHARIAH RICE, JAMES KELF and WILLIAM NASH. Several of them, in an affidavit made in this suit, state that "the duty of *insisting* on the observance of the rules" of this congregation, "*is vested in the members,*" and that they had "ceased, from sense of duty, to observe the Lord's Supper with the church until the church should cause this violation of its rules to be discontinued." As those who had to *insist* on the due administration of Divine laws, they took the customary course for doing so; that is, to *withhold fellowship* from those who violated them. Though in a minority, they deemed it a duty to act as they would have been bound to do, according to the rules of this church, if they had been in a majority, so far at least as to abstain from having fellowship in the Lord's Supper with those who violated the rule that *no unbaptized person* should eat of it. That rule had always been recognized by this church as divine, and the ninth of its original articles had declared that those who compose a church must be not merely "baptized believers," but such of them as "voluntarily agree to walk together in obedience to Christ...in all the laws and ordinances of his house." These ten members, no doubt, felt that if the majority still persevered in the violation of this law of Christ's house, they could not consistently recognize them as fit to be members of it at all; but, as a minority, they could do no more than they did, unless they resigned their *own* membership, which they felt bound to retain till all means of correcting the evil should prove vain.

The pastor is recorded to have said at this church meeting that it was "*impossible for him to give up*" the new service; and also that "*the church had given its direct sanction to it.*" When the service was first protested against, the pastor, on May 26, 1845, told the strict

members that they were "not asked to *sanction*" it; that they were "not *identified* with it;" that "*the church was not involved.*" At the meeting of March 30, 1846, the majority did, indeed, *set aside* a motion designed to put a stop to it, but it did not even then pass any resolution of "*direct sanction.*" But now the pastor seems to have held that though "*the church, as such, was not convened*" at this service, yet its *permission* of it to continue, was at least *equivalent* to the *direct sanction* of it by *the church itself*. If "*the church,*" was considered by the free-communication members to have given *such* sanction, the ten members were the *more* justified in the steps they had taken.

The pastor is also said to have reminded the brethren at this meeting, "that just what the church had *always* been, so did it continue," that is, as to *the church service* on the first Lord's day of the month; and the statement is said to have been also "distinctly made, and *the truth of it acknowledged,* that as the church had been a *strict communion church* so did it remain still, no individual being introduced to commune with it who had not been previously baptized." This testimony was most important, as proving that the ten members were merely insisting on the observance of a *law of the church*. But it is singular that the church should have been declared to be *then* both a strict communion church, and one which had given its *direct sanction* to free communion; in short, that it was the patron of both strict and free communion at the same time. The one view was adapted to reconcile as many as possible of the strict members to their position, the other to perpetuate what they opposed.

*The resolution which excluded these ten members* declared that by their absence from the Lord's Supper, they had "*vacated and relinquished their membership,*" and also "*that their connection with the church is terminated from this time by their own act.*" It was clearly not by any act of theirs, but by that of the majority, that this connection was really terminated from *that time*. Some of the excluded say in their affidavit, as to the above declaration of the majority; "*we were thus, against our earnest desire to retain our rights as members* of this church, deprived of them." Their absence from the Lord's Supper was not a resignation of membership; neither, according to the principle of free communion, was it even a valid ground for their exclusion. They were all excellent

men, and if *nothing* but the *want of piety* is a bar to "Christian communion," their exclusion was a sin; it was a tearing of the body of Christ. It was violating in the case of persons who had conscientiously *omitted the Lord's Supper*, the very principle used to justify the reception of those *who omit baptism*; and with this aggravation, that, by the admitted laws of this church, *those were rightful members*, while these were not members, and had no right to share the *church* privilege of the Lord's Supper.

Sept. 18, 1847. A meeting of the trustees held at Norwich, convened by Mr. Norton, to consider the duty of the trustees in consequence of the opinions then recently given by Mr. Bethell and Mr. Romilly. Seven of the twelve trustees then living, were members of the church; that is, Messrs. JAMES COZENS, the elder, JOHN CULLEY, JEREMIAH COLMAN (then Mayor of Norwich), JAMES COLMAN, JOHN GOODERSON, JOSIAH FLETCHER, and ROBERT TILLYARD, and all of these but Mr. Gooderson, were known or believed to have supported, if they had not joined in, the new service. Mr. Wilkin, Mr. Allen, and Mr. Tillyard were all absent, it is believed, and Mr. Fletcher came in late.

The manner in which Mr. Norton was accosted by some of the trustees, was proof of what had to be expected.

Seven of the members who had been excluded on June 28th preceding, Messrs. Williment, Spalding, Rice, Guyton, White, Hastings, and Press, had requested Mr. Norton to read to the trustees a paper calling attention to the fact of their "recent expulsion" for absence from the Lord's Supper, originating "solely" in the introduction of free communion, and respectfully submitting that as it appeared "from the concurrent opinions of the several eminent barristers who had been consulted," that the practice violated the trusts of the meeting-house, it called for their interference. "We trust," they said, "that from a conscientious and unbiassed conviction of your duty as trustees, you will forthwith take those measures for the discontinuance of the practice, which will have the effect of reinstating us in the rights and privileges from which we have been unjustly excluded."—(Exbt. P. 2.) It produced no effect.

Mr. Norton endeavoured to refer to the contents of the pamphlet which had been sent to the trustees. But he was interrupted continually, and was soon told by some of them that they would not hear either case or opinions. It was

impossible to proceed. He simply asked leave, therefore, to propose a paper for their *adoption*. Interruption continued. Mr. Norton prepared to leave; but they then said, that they would hear this paper. It called on all concerned to cease from observing the new practice in that building, on the ground that eminent counsel had pronounced it a breach of trust. They refused to adopt the paper and the meeting was at an end.

An extract from a record of such a kind of meeting, written soon after it was held, is given below.\*

\* T. stands for one, T. T. for more than one trustee. C. for the Chairman. N. for a Mr. N. A few verbal alterations have been made in it since first written.

The storm was wild; the foaming billows burst,  
With violence on him, as a thing accursed;  
T. "Conscience, indeed! aha! aha!" one cries,  
With curling lip, and anger in his eyes;—  
"Conscience, indeed! oh no, 'tis utter shame,  
To dare come hither in that sacred name."  
N. "My God! my God! denied that sacred plea,  
I turn with deep solemnity to Thee.  
Be witness for me, and from thy high throne,  
Plead, till thy righteous judgment shall be  
known."

N. "Ere I commence, 'twere well perhaps to stay,

"And ask God's blessing." C. "No, I cannot pray."

T. "Pray!" said another, "No, there is no need, The meeting's not religious; come, proceed."

N. "Let us at least, as Christians, bear in mind We cannot leave that character *behind*."

You *all* have read this case, I apprehend."

T. "I have not read it, nor do I intend."

N. "More soberly I hoped you would incline"—

T. "More soberly! we are not drunk with wine."

N. "What, brethren, condescend to pot-house jest?

Is every sentence to be thus arrest?"

T. "Brethren! You are *no brother*, sir, of mine."

C. "Bring lights.—And now, sirs, is it your design,"

Inquired the chair, "to hear the case anew?

I think it has been settled, what say you?

We *took* opinion. Ought we then to hear,

Or shall we, as I think we ought, forbear?"

T. T. "Forbear, forbear." The question's set at rest.

T. T. I think, and I, to hear him would be best."

N. "I may proceed then. T. "No, *Who* drew the Case?"

N. "Hear me, and afterwards, in the due place, I'll tell you everything." T. "Who drew the Case?

We will not hear you, till you make reply."

N. "You know already." T. "Sir, you should comply."

Mr. Norton afterwards signed, printed, and sent copies of the paper to the pastor, deacons, and most of the members of the church.

It was now *certain* that nothing but proceedings in Chancery could put an end to the practice.

Mr. Brock resigned his office of pastor, at the close of the next year, 1848.

January, 1849. Church meeting. Some

N. "I drew the Case." T. "Enough. Then I'll not hear."

N. "Are facts less facts because I placed them there?"

T. "We will not hear it, sir." N. "The opinions, then."

T. "We will not hear them. N. "To persist, were vain.

This paper *only*, therefore, I'll submit."

T. "Say *what* it is, or we shall not permit."

N. "'Tis very short; and if you will but *hear*, Its whole intent and meaning will be clear."

T. "No, *tell* us what it is." N. "It is for you To adopt as yours." T. "No, sir, that will not do."

N. "Then, gentlemen, you plainly mean to say, You *will not* hear me. Tell me, yea or nay?" With papers gathered in a hasty fold, He back retired; but soon, was meekly told, That they *would* hear it; and the words were read

In silence, like the silence of the dead.

N. "'To pastor, deacons, and to all concerned, This property to other uses turned

Than those which are by deed of trust defined, Must be misused no longer, or resigned."

Will you adopt this?" None to second rose.

C. "Then, brethren," said the chairman, "I propose,

That a new motion you do now provide, Setting these last opinions quite aside, Stating, *we* think the *former* to be true, And all feel bound not to receive the new."

T. "Motion is needless, but *we* all agree, That 'tis as you have stated it to be."

N. Did you not say,\* that *when* a breach arose, You *all* would be most prompt to interpose?

Did you not all with one consent declare, When you were met your own case to prepare;† That real exclusion not being *then* a fact Should not be named as an expected act?

Yet, *now* that it *exists*, and is made known, To the *same* counsel you had made your *own*, And breach of trust's declared, you shut your ear,

And plainly tell me, that you *will not* hear."

The LORD shall judge his people; from *his* throne,

Judgment shall speak, and sentence be made known.

"Your brethren who your fear of me deride, And cast you out, say, God be glorified; But 'tis for *you*, who are despised, defamed, He shall appear, and they shall be ashamed."

Isa. lvi. 5.

\* June 7, 1845.

† Aug. 30, 1846.

members are recorded to have said that the free communion service ought to have *ceased* with Mr. Brock's pastorate: others to have replied, that not only Mr. Brock, but "*the church*" was involved; that it had twice decided that the service be *maintained*; (query, on May 26, 1845, and March 30, 1846); and that "*all* the ordinances of *the church*" ought to be observed though it had no pastor.

Sept. 18, 1849. The public recognition of Mr. GOULD, as pastor.

Mr. T. A. Wheeler, a Baptist minister, delivered an address on the occasion, on "The Relation of the Church to the Congregation," that is, to the worshippers who are not members of the church. Of rights which "belong to the church in its corporate capacity, constituting some of its *special privileges*," he said, that "*no resolution of its own* can legitimately *hand them over*" to others. (K. 29; Two Addresses, &c., Fletcher, Norwich, 1849, p. 5); that, "so far as all privileges of this kind are concerned, the church's rights belong *exclusively* to her members in their *corporate character*," and that "the power that bestowed them made them *utterly inalienable*;" that "*all* our Christian societies" or churches, "exhibit their sense of the propriety of this principle, by the exclusion of the [said] congregation, as such, from *their* most solemn act of worship—the celebration of the Lord's Supper;" but that "while the church jealously excludes the [said] congregation from uniting in *one* of *her* acts of worship, others are left open...*Hymns*, ...are sung, in which *all* join:" pp. 7, 8. In this suit, however, well informed persons have sworn that *prayer, praise, and the preaching of the gospel* are "*generally according to the doctrine of Particular Baptists*, entitled to be called *church acts* in EVERY sense in which the communion of the Lord's Supper is so," thus leading to the impression, that the Lord's Supper is not generally considered by them to be *exclusively* a church act.

Mr. Wheeler's remarks were important also, as showing that since the Lord's Supper was generally held to belong *special* and *exclusively* to the church, and to be also "*inalienable*" from that special use by any "*resolution of its own*," this church could not have intended that it should ever be shared with mere *worshippers* in the Chapel, who were neither members of the church, nor, according to its rules, *qualified* to be so. Yet it was for the special convenience of such persons that the new service was commenced.—*Ch. Bk.*, May 26, 1845.

A "Statement" also was read at the Recognition services, in the name "of the church," containing these words:—"This church has for many years acted on the principle of confining its communion to baptized believers. An innovation on that usage was made during Mr. Brock's pastorate, first on his own responsibility, and subsequently with the sanction of the church."

This Statement said also that the church, while "without a minister," passed this resolution: "That the communion service now held on the first Lord's day of every month shall be confined, as hitherto, to members of the church and to baptized believers, the brethren being left free to meet for communion at other seasons, according to their own convictions of duty."

This new rule was destructive of the terms of membership laid down in the original ninth article of the church; by which its members were required not only to be "baptized believers," but to "walk together in all the laws of Christ's house." The tenth article states that the Lord's Supper was "delivered to the church," that is, to it only, as its practice showed; and adds, that by it "we," the church, "show forth his death." But it was now resolved that members might violate this law of God's house, and still be left free from discipline and exclusion.

The "Statement" called that resolution "a satisfactory and peaceful settlement" of an "important matter which had long agitated the church." It could not satisfy the Strict members, nor could any thing but recurrence to the former Strict practice of the church. Nor did it long satisfy the free communion members; for in about eight years, they themselves upset this settlement by new agitation and farther innovation.—*Exhibit. K. 29, p. 21.*

December 29, 1856. Church meeting. ELIZABETH BAYES was accepted with a view to being admitted a member, after her immersion. The opinion of a physician was then read that she was not "in a state of health to justify her being exposed to the consequences which might possibly result from immersion in cold water," and instead of postponing, according to custom, her admission to communion, till she could be immersed, Mr. Smith and Mr. Cozens, two deacons, favourable to free communion, proposed, that the church should "confer together" at an adjourned meeting "as to the course to be taken" in her case.

January 26, 1857. Church meeting. The case of Elizabeth Bayes considered.

The same two deacons proposed that the church should resolve:—

*"That Christians are bound to receive one another as believers in the Lord Jesus, and to partake of the Lord's Supper together, to show forth his death until he come."*

This proposal was made as "declaratory of the principle upon which the case of Elizabeth Bayes should be decided," and proved an intention to make her case an occasion for admitting all believers to communion in the Lord's Supper with the whole church. The strict members, Messrs. Yarrington, Wales, Spice, and Barber spoke against "the admission of any unbaptized believers to the fellowship of the church."

At Mr. Tillyard's suggestion the proposal was withdrawn "until the case of Elizabeth Bayes was disposed of." He proposed instead:—

*"That Elizabeth Bayes be received at the Lord's Supper on the FIRST Sunday in the month AS A MEMBER of this church, on the ground of her willingness to be baptized as soon as the providence of God allows."*

Mr. Gooderson opposed the motion on the ground that the church had not a dispensing power in respect of Christ's commandments. And Mr. Barber and Mr. Yarrington moved as an amendment:—

*"That Elizabeth Bayes remain until her health permit her to be baptized without being admitted at the Lord's Supper on the FIRST Sunday of the month AS A MEMBER of this church."*

There was a strong feeling against putting the question to the vote, and very many left the meeting. Six votes were recorded for, twenty-three against the amendment. The majority then adopted the proposal that E. Bayes be received to the Lord's Supper with the church, and "as a member" of it, without having been first immersed, and thus constituted her admission to the Lord's Supper, admission to it "as a member" of the church; for it was only "as a member" that it gave any permission to receive her at all.

Sir Hugh Cairns said in Court that the defendants did not avow a right to introduce unbaptized persons into membership. But if they had not that right, this resolution was unlawful. And what occurred after the resolution was passed, implies that it was felt to be so.

The church records show that to observe the Lord's Supper, as had been usual on the first Sunday of each month,

was deemed so imperative on its members, that both before and after the date of the trust deed, *absence* from that ordinance was made ground of exclusion from membership. Edward Jervis, for example, was excluded May 3, 1724, for having "omitted and slighted his *duty and the ordinance of Christ in this church, as a member thereof.*" The exclusion also of Mr. Middleton in January 1749 or 1750, was, in part, "for turning his back upon the Lord's table." And it was on the alleged ground that the Strict members who were excluded in 1846 and 1847, had forfeited their right to membership by their *absence from the Lord's Supper on the first Lord's day of the month*, that they were excluded by those very persons who, as a whole, *now* made it impossible for the strict members either to *enjoy this right, or fulfil this duty.* The truth of Mr. Brock's declaration in his letter to the church in 1845, before referred to, was known and admitted. Were the unbaptized, he said, to come to the Lord's Supper on that day, "you," the strict members, "*must, at the imperative dictate of conscience, go away.*"—*Exhibit, K. 1, p. 2.*

Before the first Sunday in February, 1857, when E. Bayes was to be admitted to the Lord's Supper, the pastor and deacons were assured that "*many of the members would, for conscience sake, be compelled to keep away from the Lord's Supper*" on that day if she were admitted. But both pastor and deacons *positively refused* to use their influence to prevent her admission.—*Willis and others, Affit., ph. 2.*

Feb., 1857. First Lord's day of the month. Elizabeth Bayes partook of the Lord's Supper with the church, "*in pursuance*" of the resolution that she be admitted to that ordinance "*as a member.*" (*Church Book*, Feb. 23, 1857, Min. 6.) *A great number of the members*, knowing her intention to be there, kept away; and from that time the strict members were deprived of power to observe the Lord's Supper with the church on the first Sunday of the month; nor could a *new convert*, after that time, *join the church without practising free communion.*

And not only did the strict members keep away, but even members *not unfavourable to free communion in itself*, did so, because they would not share in what they deemed this unjust exclusion of the Strict members, from their covenanted rights, guaranteed to them by the fundamental constitution of the church

and the trusts of the deed. (See declaration by such members, *Exhibit, K. 44.*)

March 11, 1857. Church meeting, adjourned from Feb. 23, to consider the motion, then re-introduced in a somewhat altered form, which Mr. Smith and Mr. Cozens had withdrawn on January 26th; and also to consider an amendment to it. The motion and amendment were these:—

"*That the constitution of this church remain unaltered; but that, as Christians are bound to receive one another as believers in the Lord Jesus, and to partake of the Lord's Supper together to show forth his death until he come, we agree to receive believers at the table of the Lord.*"

The amendment was:—*That the first Sunday of the month be set apart as heretofore for baptized believers to partake of the Lord's Supper, according to the practice of this church for the last 170 years.*"

Some terms in the above motion may perhaps need a little explanation, both of meaning and allusion, in order to be understood by all.

1. The words "the constitution of this church," were afterwards referred to as implying that its constitution would not be altered if unbaptized believers were admitted to the Lord's Supper only, and *not* to FULL MEMBERSHIP. (Mr. Gould to Mr. Norton, January 9, p. 2; and January 15, p. 3, 1858; *Exhibits*, p. 3, and K. 38.) Mr. Kinghorn had, on the contrary, often said in his works (as shown in Mr. Norton's First Affit. ph. 21,) that the constitution of Strict Baptist churches is altered by the admission of unbaptized believers even to the *Lord's Supper.*—*Baptism a Term of Communion*, pp. 4, 9, 58, 68, 167.)

2. The allusion of the words "*as Christians are bound to receive one another*" is supposed to be to Rom. xv. 7, "Receive ye one another," &c.; a passage often referred to in defence of free communion. It was addressed to the members of the church at Rome, and does not refer expressly to the Lord's Supper. The argument from it as to the Lord's Supper is, that *the receiving* commanded as a general duty, is so as to this particular privilege; and that since the members were to receive one another to whatever was common to them as Christians, they were to receive one another to the Lord's Supper. So that the argument seems clearly to require the admission of the *unbaptized to full church membership*, if it really requires it to the Lord's Supper. Mr. Gould in his Address on Schism (*Ex-*



*hibit*, K. 41, p. 3), referred to Rom. xv. 7, as including reference to *membership*.

3. "*Bound*" is supposed to mean *bound by the express command of God*; so that Christians must not treat the rule as one left loose, and open to modification either by individuals or church majorities; nor as dependent on circumstances merely, and to be observed or not at the convenience or discretion of men; but as one which they are *bound* to adhere to, and which binds them not to do the contrary, nor to do this and the contrary as well.

4. By "*believers*" was understood to be meant, not believers as opposed to *unbelievers*; for the church had never admitted these; but *all believers* of any class or denomination; whether they might hold particular or general redemption; be Calvinists or Arminians; Congregationalists, Presbyterians, or Episcopalians; Baptists, Pædobaptists, or Katabaptists, like the Friends, denying the obligation of baptism altogether; and whether they might wish or not to receive the Lord's Supper; and both bread and wine, or the *bread only*.—See *Affit. of Willis and six others*, ph. 3.

MR. GOULD DELIVERED, BY REQUEST, AN ADDRESS before the discussion was resumed. His object was to prove that *Christian baptism is not a term of communion, in the Lord's Supper*. (See *Exhibit*, K. 40.) In it he said, that "the Lord's Supper is obligatory upon the church," as distinguished from the "*individual*," and that the church consists, of "the members of the body of Christ," that is, of *all believers*, "DWELLING in any place; and, according to the New Testament, *constituting*," in his view, "the church" in that place," p. 9; that "*the baptism of the Holy Ghost...incorporates us into Christ*," "*renews the soul, and imparts to it a divine life*," that "the disciples of Jesus were not constituted 'a church' until the day of Pentecost;" but that they were then constituted one by the *baptism of the Holy Ghost*; and that "unto this church the converts of the day of Pentecost were added," pp. 4, 5. So that *first*, in Mr. Gould's view, *renewal*, or the gift of *divine life* by the Spirit, is the same thing with *immersion* in the Spirit, and this renewal does, of itself, formally and actually incorporate persons into "the church," independently of baptism, and, apparently, of any admission by men; from which it follows that no body of Christians is "the church" in any place, which does not recognize *all believers*

RESIDING in that place as *full members* of it. Secondly, The Lord's Supper, in his view, as it is also in that of Strict Baptists, "is a church ordinance," p. 9. Not only does he say that it is obligatory upon the church as distinguished from the individual, but also that "that which makes [persons] *members* of the body, determines their duty;" p. 9; meaning apparently their duty to observe the Lord's Supper. So that he differs from Strict Baptists solely as to the question, Who are *church members*? Mr. Gould says *all believers*. But in *this church*, only *baptized believers* are so; and the resolution of the free communion majority, on that day, declared, by implication, that the admission of all believers as *members* of it, would be the *destruction of its constitution*.—(*Affit. of Willis and six others*, ph. 3.)

The free communion members of this church have in various ways of late, recognized the *right of unbaptized persons to church membership*, and especially by virtually or expressly owning churches of which they are members, to be *true churches*, and by both dismissing members to them as true churches, and receiving their members to communion on the ground that they are *members* of true churches. So that the exclusion of any believers from *full membership* in this church, is wholly inconsistent, not merely with the reasons assigned for receiving them to the Lord's Supper, but also with various acts recognizing their *right* to membership.

VOTES given for the amendment, 54; against it, 78. The original motion was declared to be carried. The resolution as to E. Bayes, related to a *special case*, and would have ceased to exclude the strict members from the Lord's Supper after her baptism, which took place on July 1, following. But *this* resolution declared the admission of all unbaptized believers to be *binding* as a *permanent and universal rule*. The *suspension* of that rule once a month, resolved on March 30th following, was clearly *inconsistent* with the declaration that the rule was *binding* on the church; for if it was *binding*, the church was not at liberty to *unbind* it.

March 30, 1857. Church meeting. Three resolutions as to communion.

Resolution I. — Proposed by Mr. Fletcher and Mr. J. D. Smith; "That *this church*, whilst welcoming to the table of the Lord those whom we regard as joint partakers with ourselves of the grace of Christ, is anxious to meet the case of such brethren as conscientiously

object to commune with unbaptized believers at the table of the Lord; and therefore resolves to set apart one afternoon in each month for the celebration of the Lord's Supper by baptized believers; but leaves the choice of the day to be determined by those brethren."

Observation 1.—By "partakers of the grace of Christ," was supposed to be meant any and all partakers of it, and by "baptized believers," baptized believers only. 2.—What God makes "binding," it is sin in man to violate. Those who thus resolved to exclude the unbaptized from the Lord's Supper once a month, had declared it to be a "binding" duty, nineteen days before, to receive them to it. 3.—Church members have all the same right to meet whenever the church meets. This resolution admitted that the strict members could no longer do so "conscientiously," and instead of "meeting their case," it asked them to endorse the act by which they had been excluded from some of its meetings, and to consent to that exclusion. 4. It deprived them also of power to fulfil the duties devolving on them as *part of the governing body*. They could no longer enforce, as the ancient constitution of the church required them to do, the limitation of the Lord's Supper to persons immersed after faith. Like judges, they must not *silently acquiesce in the violation of the statute laws of the realm*—the laws they were bound to enforce; they must not misuse their office to countenance what they were bound to oppose. 5. The acceptance of this proposal would have countenanced the systematic violation, by those who made it, of what they avowed to be a binding duty. But, 6. *the most destructive effect of it was this; the only service at which new converts are received, had now been made a free communion service; no new converts, therefore, but those who were in favour of free communion could now become members of the church*. The only other means of receiving members, is by letter from other churches; but no Strict Baptist from another church would be likely to join this church under such circumstances; and, as such transfers of membership are only casual, and are never the chief means of supplying the places of those who die, this plan was an almost certain means of *extirpating from the church, and soon, every member who adhered to its former constitution*; that is, every Strict Baptist member such as those were by whom the chapel was built, and for whose

sole worship the deed declares it was intended.—See Letters of Willis of Mar. 31, 1857; and Mar. 30, and April 5, 1858.

Statements then made on the side of those who adopted this resolution, and in it declared themselves "*anxious to meet the case*" of the strict members, made it evident that the plan would have this result. Had they endeavoured to devise a plan at once most plausible in appearance and most destructive in its effects, consummate skill could not have done more. That these effects would happen, was soon pointed out to them, and yet they continued to urge assent to their proposal; and, to the last, defended the introduction of free communion on *the very ground* that this plan secured to the strict members their rights and privileges. The learned Judge, thus assured, seems, from his remarks when delivering judgment, to have had the impression that it did so.

Res. II. Proposed by Mr. Tillyard and Mr. Norton (not the trustee, he was not a member):—"That those believers in the Lord Jesus Christ, who have been accustomed to meet together with members of this church on the third Lord's day in each month to eat the Lord's Supper, be affectionately invited to meet with the church henceforth in all commemorations of the Lord's death, which may be agreed to amongst us, save that which is set apart for baptized believers only."

Observation 1.—The names of the persons thus admitted are said to have been E. Bleakley, Mrs. Bleakley, Mrs. J. C. Norton, Edward Willett, Mrs. Willett, William Brooke, Mrs. Brooke, Mrs. John Culley, jun., Mrs. J. J. Colman, Marina Warne, Amelia Warne, Mrs. C. Hart, Mrs. Abraham Tillyard, Miss Eliza Blakely, and Charles Irons. 2. These persons were received, not as occasional, but PERMANENT COMMUNICANTS. Never till then, so far as has been shown, had any persons been received to permanent communion but full members. The defendants admit that these were neither full members, nor personally entitled by the deed to the use of the chapel; and yet, by meeting with this congregation, they excluded from its meetings at all times when they were present, those who were members of it, who had an admitted title to the full benefit of the building, and whose conscientious adherence to the worship of those who put the chapel in trust for their own use, was admitted to have made it impossible for them to meet with

the church when these unbaptized persons were present. 3. These unbaptized persons were thus avowedly received to greater privileges as to the Lord's Supper, than were offered to the strict members; the latter were offered one service monthly, the former were invited to all other such services, including that at which new members were received.

Res. III. "That believers in the Lord Jesus, who may hereafter desire communion with this church at the Lord's table, be admitted thereto by the vote of of the church."

Observation 1. This was acted on in the case of those who desired permanent communion. Believers of various kinds were received, it will appear, to occasional communion, without any such special vote as to each individual. 2. In accordance with this resolution, messengers were appointed on December 29, 1858, to visit two Presbyterians and one Independent, all Pædo-Baptists, who had applied for leave to commune with the church. On January 31, 1859, leave was given by the free communion members. Messengers were appointed to visit an Episcopalian applicant also.—*Willis and six others, Affil. ph. 6, 7.*

These persons, as to this mode of admission, and the permanence of the privileges given, were treated the same as church members; and if the Strict Baptists would be members, when deprived of a part of the rights of members, these persons were partly members also, though admitted only to a part of the exclusive rights of members.

April 11, 1857. Mr. W. Norton, the trustee, having been informed of what had occurred, and appealed to as a trustee by the strict members (see *Affil. of Willis and six others*, ph. 17), went down to Norwich, heard full particulars, and on April 11th, 1857, called, in company with Mr. Willis and Mr. Thouless, two of the members, on Mr. Gould, the pastor; also on Mr. Cozens the elder, Mr. Fletcher, and Mr. Tillyard, all three of whom were trustees, deacons of the church, and active promoters of the free communion services. He, as a trustee, urged them all, if they felt bound to pursue practices declared by concurrent legal opinions to be breaches of that chapel-trust, to withdraw from the place, and pursue their convictions of duty elsewhere. They all, in effect, denied that the practices referred to were breaches of the trust. Mr. Norton urged other trustees to unite in putting a stop to these practices; but in vain.—*Affil. of Willis*

and Thouless; also of W. Norton, i. phs. 48, 49.

May, 1857. A meeting, to observe the Lord's Supper, called a "MISSIONARY COMMUNION," and connected with the annual meetings in Norwich of the Baptist Missionary Society, was held in this chapel, to which were invited "the members of all Christian churches." Among those present, as the evidence in this suit states, were Wesleyan Methodists, who avowedly hold the doctrine of general redemption. They had not, they said, to apply to any one for ticket or introduction, but only to go and take their places.—*Willis and six others, Affil. ph. 11.* The evidence states that a similar service was held in the chapel on May 10, 1859.—Same, ph. 12.

Observation 1. Church membership was thus by act as well as argument, made the basis on which a title to observe the Lord's Supper depends; for church members were the persons invited. This basis of the title to observe it, had been recognized in argument by the resolution of March 11, and by the express statements also made by Mr. Gould on that day. 2. All the churches thus referred to, were recognized as true "Christian churches." From what variety of churches members were present, does not appear in the evidence, but it does appear that Wesleyans were present, and this is sufficient to illustrate the extent of this actual recognition. 3. All members of these churches were also recognized as really church members, and as entitled to be so; which was also a recognition of the title of all such persons to membership, if they desired it, in this Christian church in St. Mary's, as well as in those other "Christian churches." 4. But more than this, if a Unitarian, for instance, was in doubt whether his church was meant to be included among "Christian churches," it does not seem, judging from the testimony of the Wesleyans present, that means were taken to prevent even him, or indeed any one, from uniting in the service. 5. But since Wesleyans are declared to have been present, and their admission was justified by Mr. Gould (*Exhibit, K. 38*), it is evident that the service was intended to include those who had nothing, whether as to doctrine, proof of saving faith, baptism, or church government, which was essential to constitute a person a member of that congregation of Particular Baptists, for whose sole worship the building was put in trust. As to proof of saving faith, for instance; Mr. Norton

remarked to Mr. Gould (in letter of Jan. 13, 1858, *Exhibit*, P. 4.) that the Wesleyan Society is declared by its rules to be no more than "a company of men *having* the form, and *seeking* the power of godliness;" and that a believer in the Particular Baptist sense is "one who *has saving faith*." Mr. Gould, on Jan. 15, 1858 (*Exhibit*, K. 38), replied, as to the Wesleyans, "I am willing...to *vindicate* their admission to the Lord's table." "I shall always be ready to receive *any man who professes* to be a 'believer in the Lord Jesus,' as one who professes to have *saving faith*." "I am *commanded* to [receive him], but I *must not judge* him." These words seem to deny the right of any one to *judge* whether he who *professes* to believe, has really saving faith or not. Such a view may be necessary, perhaps, to justify the *free* communion of such services. But surely Mr. Gould was mistaken as to the former practice of *this* church, and the *possibility* of its existence, if he really said on February 1, 1858, (see Church Minutes), of Mr. Norton's statement "that *proof of saving faith*" had been "necessary to communion in *that* chapel,"—"It is an unblushing attempt to support a false charge by ascribing to the church a rule which it has never recognized and in the *nature of things never could have recognized*." Mr. Gould, afterwards, in his first Answer to the Information and Bill, ph. 67, quoted the title of chap. xiv. of the Particular Baptist Confession of 1677 and 1689, "Of saving faith;" and no doubt saw then and there that the faith of all God's elect, was called by Particular Baptists "saving faith," and that this was the faith which they deemed prerequisite to "the administration of baptism and the Lord's Supper," section 1.

April 27, and June 1, 1857, were the regular days for monthly church meetings. The meetings were not held, nor any church meeting from March 30 till June 29th, 1857, three months. The Declarations, or Protests against the new practice, designed to be presented at a church meeting, could not be so till June 29. This suspension of meetings, afforded time for preparing measures in support of that practice, and prevented, for the time being, any motion at church meeting against it. (R. W., May 29, 1857, Jan. 15 and 20, 1859; J. B., May 30, 1857.)

May 3, 1857. From 90 to 100 members, who were *unable* to observe the Lord's Supper at their own chapel ac-

cording to the ancient strict communion rule of *this* church, on this the *regular* day for its observance, observed it *according to that rule* elsewhere. The above-named Declarations asserted their continued right as members of this church to observe it *thus* in their own chapel; and *while awaiting* the result of a probable appeal to Chancery, they resolved to continue the exercise of this their *right and privilege*, and of this their *duty to God*, though *unable* to do so in their own chapel. It was reported that there were *not nearly so many* members at the free communion service held at the same time in St. Mary's Chapel itself. (R. W., May 3; J. B., May 6, 1857.)

May 28, 1857. Letter of Mr. Norton, the trustee, to Mr. Gould (*Exhibit*, M. 1). "Dear Sir,—I have need as trustee of the meeting-house in which the church of which you are pastor worships, to inspect the early records of its proceedings contained in its CHURCH BOOKS, in reference to the question of a breach of trust, and request that, if you deem it necessary, you will consult the church at its next meeting, and will inform me where I, in company with one or more members of the church, can see the said books, and make such extracts from them as shall appear necessary, with a view to enforce the observance of the trusts. I hope that neither you nor the church will offer any objection. If necessary, power will be obtained, but I hope that every facility of that kind will be afforded by you and the church with readiness and courtesy."

This letter implied that an *appeal to Chancery* was contemplated, and that, if necessary, power would be applied for to the Court, to do what this letter asked leave to do. That power *had* to be applied for, and was *granted* during the progress of this suit. Mr. Norton's request was that Mr. Gould, in the event of not feeling at liberty himself to give the leave asked, would *consult the church*. But Mr. Gould acted as if no such request had been made. Yet, in his published sermon, delivered June 3, 1860, he said, in reference to Mr. Norton's request: "Acting under legal advice, I declined *his request*, and thereupon he addressed himself to the church:" as if Mr. Norton's first request had related to Mr. Gould only, and not to the church at all. For some reason he did not "consult the church," as requested, and Mr. Norton had to write again; but in that letter he addressed the whole church, and made it impos-

sible for answer to be given to it but by the church itself. Mr. Gould's first reply related *solely* to his *own authority as pastor*.

June 7, 1857; Sunday. The protesting members observed the Lord's Supper, according to the strict communion rules of the church, as they had done in May. While they were doing so, two members who had voted for the resolution of March 11, came in and sat down. They were offered the bread and wine, but refused to take them. They must, it is supposed, have *omitted* the Lord's Supper altogether on that day, on the ground that their *present object justified* the omission. (R. W., June 10 and 25, 1857.)

June 8, 1857. Mr. Gould to Mr. Norton (*Exhibit*, P. 3). "In reply, &c. I beg to state that I am advised that, as pastor of the said church, I am not authorized to allow you, as trustee of the said meeting house, to inspect the church books, and must, therefore, respectfully decline acceding to your request." On the evening of this day, by an accident, one of the two persons referred to above (June 7), was found in the chapel vestry with the pastor and deacons. (R. W., June 10, 1857.)

June 10, 1857. Mr. Norton addressed a letter to the pastor, deacons, and members of the church; in which he said:—"Having been informed that practices have been continued, and carried out so as to involve a more serious breach of the trusts of the meeting house in which you worship, than when eminent counsel declared that a breach of trust had been committed, I hereby request permission to examine the church books in order to ascertain whether its former practice and decisions contain any evidence bearing on the question of breach of trust....I shall need, also, to make extracts of whatever affects the question of breach of trust, and request your assent."

June 29, 1857. *Church meeting. Disclosure of measures intended to be adopted towards the protesting members.\* The two Declarations of those members presented. They are denied to have a right to make motions. The free communion members propose arbitration. Mr. Norton's letter of June 10th read.*

\* The "revolution," then in process of accomplishment, "may be effected," said Mr. Hall, (Reply, Preface xix.), without "a particle of violence or injustice;" and as the means adopted in this case have been so patronized, and seem to be regarded as illustrative of that statement, the next steps are described more at length.

I. Mr. John King, one of the members who witnessed the celebration of the Lord's Supper by the protesting members on June 7, bore witness of that fact. Mr. Newbegin, one of the free communion body, asked the pastor in what relation those members, *in consequence of this celebration of it*, stood to *this church*.

II. THE PASTOR THEN READ AN ADDRESS, in which he stated *his view of the law of Christ as contained in the New Testament*, upon the subject. It was a paper on "*the Question of Schism*" (See *Exhibit*, K. 41). In this address, as referred to in the evidence (*Willis and six others*, ph. 14), Mr. Gould said:—"a Christian minister invokes the aid of the civil authorities to enforce *his own personal convictions* upon all who may use this building," p. 2. Was there *any one* who was doing so? Mr. Gould said that he did not intend to urge the church to carry his view of the law of Christ into *immediate execution*, p. 3.

THE ABSENTEES WERE ALL DECLARED GUILTY OF THE "GRIEVOUS" SIN OF SCHISM—of having "*sinfully 'rent' this body of Christ*" (p. 5, line 41; p. 8, line 1). They had "not formally resigned their membership" (p. 1, line 33), but had "*separated themselves from this church*," (p. 6, line 5); and had done so without "ground" for so doing, (p. 6, line 33). "The church is *bound*," he said, "if they persist in their course, to deal with them as CAUSING divisions and offences (among them) '*contrary to the doctrine which they have learned*,' and to avoid them." Rom. xvi. 17," p. 8, line 14. It was "bound....to proceed, upon their continuance in *schismatical acts*, to withdraw from those who thus '*walk disorderly*.'" p. 8.

How remarkably opposite are the views which are sometimes taken of the same events. A person who has injured others, may occasionally be heard in pious tones, urging his victims to repent of having so greatly injured *him*. Perchance a son who has made his father's house unbearable, will tell him when heart-broken, that if he does not mend his manners, he shall be *locked out*. Certain it is that in the Norwich case, the protesting members thought that the authors of the "revolution" were those who had *rent* the church, by making it *impossible on the first Sunday of each month*, for those who adhered to its constitution to *meet with those* who had violated it. But here was quite another view; those who thought themselves *forced out by the revolution*, were de-

scribed as having *wilfully and sinfully* broken the church to pieces. The difference was great and most material. The reader must judge which view is the right.

THE PUNISHMENT THREATENED WAS "WITHDEAWMENT" (p. 8.), TOTAL EXCOMMUNICATION, in the name of Christ, for "*rending this body of Christ.*" To deserve such a penalty, the sin *must* have been great. What had these members done? They had observed the Lord's Supper as *members of this church*, according to the *ancient rules of this church*, and at the *regular monthly time of its observance*. At that time certain other professed members of it were *violating the ancient rules and constitution of the church* by observing the Lord's Supper in a manner *contrary to those rules*. None of the protesting members could *conscientiously join with them in that violation*; though not all for precisely the same reason: some could not join, because they themselves could not conscientiously commune with the unbaptized, others because they could not countenance the unjust exclusion of these last mentioned members from their rights. The *duties and rights* of the protesting members were not affected by the conduct of the friends of the "revolution." According to the rules of the church, it was still the *duty and the right* of the former to observe the Lord's Supper as it had always been observed, and *they did so observe it*. The sole reason why, to their grief, all the members were not observing it together, was because the "*revolution*" had made this IMPOSSIBLE. The charge that the members who *adhered to the constitution of the church were sinfully rending this body of Christ* was, in their view, not only a false charge, but one which attached to the *very persons who brought it against them*. They felt that the latter by introducing the unbaptized had rent the church into two parts. "They have met," said Mr. Gould, "at the same times, on two occasions at least, as *this church* has assembled for *communion at the table of the Lord*;" by *this church*, meaning those members who were *violating the rules of this church*, and who had made it impossible for the strict members to join with them in communion at those stated times: p. 4, l. 37.

There was another alleged ground for thus punishing schism: the absent members were adhering to *strict communion*, and *this*, the ancient practice of this church, was *itself schism*. After defining schism to be "a 'rent' in the body of Christ" (p. 5, line 7), Mr.

Gould said, "it is schism in professed Christians now-a-days to refuse communion in the Lord's Supper, to those who are by grace partakers of the substance," &c., meaning evidently to unbaptized believers (p. 5, line 24.) But how could it be true that the absent members by observing those very rules of strict communion which this church had *always before observed*, had, as on the same page (line 41) they were declared to have done, "*sinfully rent this body of Christ.*"

But, CONSISTENTLY WITH FREE COMMUNION, how, even if these members had violated the rules of this church in some way as to the Lord's Supper, could Mr. Gould, with his views, allege that they ought to be excommunicated? for he had spoken on March 11, of all believers "*DWELLING in any place*," as "*constituting the church in that place.*"—*Exhibit, K. 40*, p. 9, line 30. If so, to excommunicate *any true believer* even for the omission of the Lord's Supper altogether, must be to tear the church limb from limb. Besides, how could he consistently receive believers who omit baptism, to one act of church communion, and yet exclude believers who omit the Lord's Supper from all such communion?

Since March 11, circumstances had changed. Views seem to have changed also. Church membership no longer consisted in *faith and residence*. "Membership in this church," according to "OUR UNIFORM PRACTICE," said Mr. Gould, is "essentially a VOLUNTARY COMPACT to walk together as becometh saints." "The church, so constituted, is pledged to meet together to hear the word of God preached, to eat the Lord's Supper, to unite....in prayer and praise," &c. "It is, therefore, a condition of membership in this church...that these terms of the compact be observed." "Our voluntary compact is at an end, if any member withdraw from our assemblies without just cause as a believer," &c., "or dishonour the name of Christ by walking disorderly," &c. "Our practice is to deal with all such cases as matters of church discipline." (p. 3). "We withdraw from the wilful absentee." "We exclude those who transgress God's commandments," p. 4. Upon these grounds, Mr. Gould said that the "WITHDRAWAL," of the protesting members "from public worship and communion with us...is a violation of their compact with the church, and should be dealt with in accordance with its ESTABLISHED RULES," (p. 4). But how, according to the "*uniform*

practice" of this church, were its members required to "eat the Lord's Supper?" according to the rules of *strict* or of *free* communion? If, according to the former, as the evidence proves, then the compact of church membership, made by members on admission, involving a pledge to "walk together in all the laws and ordinances of Christ's house," was a pledge to unite with none but the immersed in communion. This was part of the "pattern" which they might "not alter." To receive others, was to "walk disorderly"—to transgress a rule which, on the authority of universal apostolic practice, the church held to be a "Divine command." It was the free communion body of members who had violated this compact, had walked thus disorderly, had broken this command, and who, having thus violated their church compact, had ceased to be entitled to membership in this church. This is proved by Mr. Gould's own mode of argument. The absent members had declined thus to violate their pledge and contract; they had adhered to their pledge to support the "worship and communion" of this church. Instead of having withdrawn from that "worship and communion," they had adhered to it; p. 4, l. 12. Their partial separation from the friends of the "revolution," was not "wilful," it was not "without just cause;" they, and they only, had maintained their church compact; and they were therefore the church itself.

THEY WHO PROFESSED TO PUNISH, HAD ENFORCED THIS ABSENCE. The only means of giving speciousness to the imputation of wilful absence, was the declaration that the innovating members, by offering to unite in excluding from the Lord's Supper once a month all but baptized believers, had "provided for all" the members. (p. 6, line 27). Mr. Gould said, that they "who could not commune with unbaptized believers, were assured of their brethren's willingness to meet with them...at the table of the Lord," so that "there was no ground provided, upon which any should be, or were, compelled to withdraw from the fellowship of the church." (p. 6, lines 28—35. But what is the fact? At p. 8, line 6, he says of the protesting members, "if [they] see that with our convictions of duty to Christ it is impossible for us to refuse to receive those whom Christ has received," and "that it would be sin in us to abstain from doing what we believe to be our Lord's will;" &c. Once a month those who had these solemn "convictions of

duty," proposed to refuse to receive unbaptized believers, and to abstain from doing their Lord's will. But could any one of noble mind consent to receive a gift which, the givers said, cost them their conscience towards God, and plunged them into sin? Could he consent to a special contract that others should once a month sin with a special view to his accommodation? Next it must be borne in mind that the strict members if they had accepted this service, would not merely have accepted a gift so costly to those who gave it, but must have assented to their own permanent exclusion from church services, including the chief Lord's Supper service; to attend which, in common with all others, they were entitled as members, and at which last, and then exclusively, new converts were received; that they must also have assented to be treated as persons under a ban, whose very system was spoken of and regarded as the sin of schism; and still more, must have assented to the speedy extirpation of every Strict Baptist from the church. Surely if devotedness to God, to conscience and integrity, makes anything imperative, they were compelled to refuse communion which could be possessed only on such terms. Nor could they have assented to such communion, without compromising their duty as church members to withdraw, if no remonstrance could avail, from those members who "walk disorderly," and break the laws of God's house, as these innovating members, in view of the strict members, did.

AS TO THE DUTY OF NOT PARTAKING IN OTHER MEN'S SINS; Mr. Gould said:—"If it be assumed" that the proposed separate service for the strict members, cannot free them "from complicity in the supposed sin of others, then it is their duty to withdraw...from such a church." "Nothing can justify our becoming partakers in other men's sins." (p. 7, lines 20—27).

But, first, this remarkable suggestion quietly assumed that the innovating members represented the church, for which the property was put in trust.

Secondly. Ought not the duty of not partaking in other men's sins to have been first exercised by the friends of free communion themselves? Some of them might think it very rash and very unjust if one of their number were to address them thus; yet there might be, perhaps, a touch of reason even in this rashness: "Believers in Jesus are bound by his laws in all things:" (p. 7, line 4).

We say it is *sinful*, 'it is *schism*, to refuse communion in the Lord's Supper' to all believers. (p. 5, line 25). We say that 'unwillingness' to commune with them is 'the *essence* of schism,' p. 29. It must then be a sinful thing in us to 'assure' those who have this 'unwillingness,' that once a month we will to exercise this unwillingness too, (p. 6, line 29), and to *join with them* so to refuse communion, and so to break what we say is a law of Christ. We thus commit the sin we condemn. It is no excuse for doing so that we do it in order to leave 'NO GROUND' for them to say that they are 'COMPELLED' to commune, if at all, *separately from us*. We must not *sin* either to please them, or to keep their chapel, by showing that our practice is compatible with *their rights*, and the trusts of the deed. But besides this, spite of our *sinning*, they would still have 'GROUND' for separate communion; for they have as much right to commune on the regular *first Sunday* of the month as we have, and a *little more* than we have to commune in *that chapel* with those who are not Baptists. We must not parcel out church privileges as we like; give one member *full privilege* and cut off another with a *part*; church membership, is church *equality*, and he who robs a member of any part of that equality, is guilty of treason, violence, and oppression. As to the proposed strict service, instead of giving the strict members their rights, it would prove, as any of us may see, who is willing to see it, an utter delusion; it would cheat them, if they accepted it; were they to do so, they would commit suicide by *lingering torture*. I will have nothing to do with such iniquity. Let the chapel go; it was intended for them; and we cannot act *consistently* and claim it. We are trying to make out that they, by communing twice *separately from us* on the *first Sunday* of the month, 'have *ipso facto* separated themselves from *this church*.' (p. 5, l. 38; p. 7, 42; p. 6, l. 5). Now first, we communed *separately from this church* in Mr. Brock's private house, and the chapel, and in a manner quite opposite to the rules of this church, and yet we allege that we did not thereby *sacrifice our membership*, but are members still. Is it not, then, something like hypocrisy for us, who claim membership spite of such an act, to use that membership to exclude *them* for holding a *separate service*, and one which, owing to the position in which we had placed them, was *justified* by the rules of the church

itself? Again, in their *communion services* they have not separated themselves from *us the members of this church*, but only from the unbaptized persons whom we had associated with us and who are *not members*. They offered the elements even to the two members of our party who went to spy out their liberty. And once more: in what, as to principle, do the services in which they have joined *differ from the service which we offer them*? We who look upon this offered service as a schismatical service, could not, of course, require the members in general to attend it; nor *could the strict members* attend the first Sunday service, which *all the members ought*, according to the rules of the church, to be required to attend. A few of us would go to the strict service just to keep the thing alive; but, declaring it as we do, to be a wicked and sinful service, the strict members would be thus about as much *separated* from the other members as they are now, both as to the *act* of observing, and the *mode* of observing the Lord's Supper. The fact is, we want to get rid of them, and to get their chapel. The attempts we make to justify ourselves, only condemn us the more. It is *we* not *they*, who ought to withdraw from this place. There is another thing; almost all the *arguments we use* for free communion at the Lord's Supper, require us to receive all believers to *full membership*. All our chief writers say that these arguments make it our *duty* to receive them to membership. At present we practise strict communion as to all church privileges but one. We are models of inconsistency. We admit that if we were to receive all believers to full membership, we could not retain the chapel; and we forbear to do what our principles say we ought, hoping to retain it. We go far enough to deprive the strict members of their property, and stop short enough to retain it for ourselves. I loathe myself as in dust and ashes, for the part I have taken in such conduct. I will have nothing to do with it more."

Thirdly. Whatever amount of separation might be necessary, *after* the final decision of the Court of Chancery, the strict members were well aware that *at that time* a voluntary declaration by themselves that they *withdrew* from the *very congregation* of which they only and their friends were the true representatives, and for which the property was put in trust, would have left the chapel to be enjoyed exclusively by those



free communion members, one of whom suggested this course.

A correct knowledge of the facts of the case at this period, will be found to be most important, both on account of the use made, in this suit, of statements like those of the above address, and of the degree in which they seem to have influenced the Judgment.

July 29, 1857. III. ADVICE.—Advice, to be of value, as to what is constitutional, must come from those who are friends of the constitution; and from friends too who are above the reach of *unfriendly influence*. If, for instance, by skilful means, persons who, in private sentiment, were opposed to the rights of private property, had become a majority in our House of Commons, and if, after an actual breach of those rights had been alleged against them, they were to write to members of associate bodies on the continent, were to receive replies favouring their common aim, by means of revolution, to seize on private and to make it common property, were to place these replies before the British Parliament as the best advice it could receive, and were to add a letter from a person, who, though not one of themselves, gave the same advice,—what would the value be of the advice so tendered? Let not the analogy be stretched beyond resemblance.

The pastor, after reading the above address, is said in the Church Book to have remarked, that “being anxious in so novel and important a case to obtain for the church the best advice, he had made a copy of all the minutes in the church-book relating to the question of open communion, as now resolved upon, and had laid it, together with a statement of the conduct of the brethren who had worshipped and communed together at Tombland chapel, before several ministers whose written opinions he would therefore read.” The letters read were from Dr. JOSEPH ANGUS, Mr. WILLIAM LANDELLS, Mr. J. H. HINTON, the Hon. BAPTIST W. NOEL, Mr. WM. BROCK, Dr. THOMAS PRICE, Dr. EDWARD STEANE, and Mr. CHRISTOPHER WOOLLACOTT. All but the last are advocates of the free communion system of Mr. Hall, and most of them are regarded as giving their best help to speed the “revolution” at which he aimed. If, too, the editor is not mistaken, they admit, without reserve, that true believers of all kinds are *entitled to full membership*; and even if they have not all received them as *fellow members*, have at least declared

their full approval of those who have done so. If this be true, how can it be shewn that they could advise the exclusion from membership of any *true believer* on any account whatever, and yet act worthily of their principles and practice? how shewn that they ought not, acting consistently with these, to have said to Mr. Gould, that on the principle of free communion, all believers should be received not merely to the Supper, but to *full membership*; that if the chapel could not be used for this purpose, it should be resigned; and that on no account should the strict members be excluded from membership, unless they ceased to be true Christians. Might they not have said with Mr. Hall, most fitly, that if the “greater part of a society refrain from acting agreeably to their avowed principles...they in reality place error on the throne—they prostrate themselves before it?”—*Hall's Reply*, &c., Pref. xvi.

Such, however, was not the advice given.

Dr. ANGUS is recorded to have said, on June 17th, that the course pursued by the strict members “if persisted in, ought to end in exclusion from church fellowship.” In 1845, when assisting to form a church, to consist of all believers, at High Wycombe, he said, “Shall these men [true believers] be *excluded* from the body of believers, because...they differ from you on one point? Is it not the perfection of the church...when *all Christians* are in it?—*Prim. Ch. Mag.* 1846, p. 15. He rejoiced, he said, that that church was not “a Baptist church.” (p. 15). “In a Baptist church, baptism is essential to *membership*,” but “in a Christian church...*true faith* is alone essential.” (p. 14). *Exbt. M.* 5. Yet in 1857 he said of *true Christians*, that they *ought to be excluded from the church*.

Mr. LANDELLS is recorded to have said, on June 17th, that “the dissident members” should be called upon “to *repent and retrace* their steps,” and if they did not, “should be *excluded from the fellowship of the church*.” Yet in the *Freeman* newspaper of April 29, 1857, he maintained the duty of “uniting in Christian fellowship at the Lord's table and *elsewhere*, with *all*” persons believed to be “children of God;” and is reported in the same paper, of May 13th, to have said of his church, that “they did not insist on *baptism* as a pre-requisite to church *membership*.” (p. 265). Yet in June of that very year he urged the exclusion of “children of God” from

this church. Mr. Landells denies "that the death of Christ secures the salvation of its objects." (*The Church Mag.*, 1858, p. 284). He is not really, therefore, a Particular Baptist.

Mr. HINTON is pastor of a church of which Mr. Gould, in his first Answer, ph. 36, says that it at first and "for many years from its formation practised strict communion," but "*now practises open membership*;" that is, receives all believers to it. The change is so recent that the editor of these pages has some remembrance of it. Somewhere near the time when the meeting-house was devoted to its present use, that is, on January 24, and March 6, 1846, he wrote to Mr. Edward Smith, who was then, he believes, a deacon of the church. He requested a statement of the actual trusts on which the property was held, intimating that it was said that they had no title to use it for such a purpose. Mr. Smith's replies of February 23 and March 26, are before him. In the latter, Mr. S. said that he had laid his letter of "March 6th before a meeting of the pastor and deacons," and was directed to say "that they cannot recognize any title on your part to the information requested." There is, however, a general title in all persons interested to inquire into the right use of trust property. That case is believed to be one of like kind with this at Norwich. It has, in the present suit, been appealed to, as if it could give a sanction to what has occurred there, and as if one act, which had been protested against as wrong, could sanction another of like kind. Mr. Hinton, though it appears that he receives all believers to membership, recommended on June 18th, 1857, that those believing members, at Norwich, should, after a time, "be ruled off," that is, deprived of membership. His advice, too, was that of one in like position, as to a question affecting trust property.

The Hon. BAPTIST W. NOEL is recorded to have said, on June 18, 1857, that if the strict members thought that they might remain "*members of the church without sinning, they should be warned that to abstain from uniting with the church...in prayer and in the Lord's Supper, would be an act of schism, and must be accordingly dealt with by the church.*" The Hon. B. W. Noel spoke on the assumption that free communion was lawful in that church. But that was the question which had now to be determined. If this church was founded

on strict communion principles, it was now constituted by those members who adhered to those principles. His advice assumed this to be "*an open communion church*;" but it is remarkable that like that of others, it did violence even to his own avowed principles. In the *Freeman* newspaper of Dec. 24, 1856, appeared a note from him to the promoters of a chapel at Shepherd's Bush, erected for a church receiving all Christians to "full membership," in which he said, "*I entirely approve the principles on which you propose to build.*" But the principles of that church were altogether violated by a recommendation to exclude these true Christians from membership at Norwich.

The question on which advice was needed was afterwards placed before the Hon. B. W. Noel, just before the bill in this suit was filed in Chancery, and he was entreated to counteract the influence of this by other advice. Mr. Norton, in a letter dated March 6, 1858 (in *Exhibit*, P. 4), said:—"My dear Sir,—I hear that the measure of excommunication against the Strict Baptist brethren at Norwich is again threatened. You and others are said to have counselled it. I remember that when Mr. Oncken was present at the Diorama Chapel, you felt bound to protest against the exclusion of true Christians from church communion. How is it, then, as a question of consistency, that you can counsel the excommunication of men whose only sin is *fidelity to conscience and to God*?" "The trust-deed most expressly declares that the chapel is for no use whatever but that of the Particular Baptists of that congregation, or church; that is, as to legal right. I have just laid the case with its attendant circumstances, before the Attorney-General, and am assured that there is no question as to the reality of a breach of trust. Nor is there a single barrister whose opinion has been given upon the facts as they have existed for some time past, who has not pronounced it [the practice] a breach of trust. Yet.....is it possible that you are aiding and abetting such a course?.....I now plead with you as a Christian, to clear yourself [of], and dissuade others from, the wrongs which are being done to Christian men under the name of Christian love at Norwich....O, my dear Sir, listen." The appeal had no effect. The case was treated as a quarrel,—a quarrel between Mr. Norton and the church. There was a refusal to withdraw the counsel before given: it was

left to work its natural result; and an earnest appeal which, if listened to, might, perchance, have stopped the filing of the Bill, was treated thus.

Mr. BROCK was the former pastor of this church. He knew, for he had said it, in 1845, that if the unbaptized communed *with the church* in the Lord's Supper, the strict members "*must, at the imperative dictate of conscience, go away.*" He had now become pastor of a church which (as Mr. Norton is informed by one of its deacons,) professes to act on the principle of admitting every Christian to *full membership*, and therefore of denying the right of any church to *exclude* from it a *true Christian*. Yet, he is recorded to have advised, on June 18th, 1857, that in each case of continued absence "from the sacramental communion," the church be moved to declare, respecting such an "offender against the law which requires unity," that his membership had "ceased by the offender's own act." But who were the actual absentees from the Lord's Supper, as *rightly observed*, according to the rules of this church? Who were the *offenders* against its unity? And how, if all Christians are entitled to membership, could it be right to say of the strict members, *exclude them, though Christians?* Were these writers so eager for the exclusion of the strict members as to forget their own principles? Mr. Brock, as shown already by the evidence, had "deliberately originated another sacramental communion" at Norwich distinct from that of the church, and yet in this letter he said that if an absent member could be shown to have so originated such a service, his "voidance of membership [was] indisputable." What a difference between the effect of the same act in a free and a strict Baptist? Mr. Brock said in this letter that he, as a pastor, "should hold any such acts of communion...to constitute a violation of the unity of the church," and yet had he not himself for years as a pastor persevered in such acts?

Dr. PRICE, a predecessor of Mr. Hinton at Devonshire Square, London, said in his *Protestant Nonconformity* (Exhbt. 43, vol. ii., p. 317,) that "the separation of the Baptist and Independent bodies" is an "unjustifiable division." No doubt, therefore, he maintains that *all Christians are entitled to membership*. Yet in the case of these *true Christians* at Norwich he is recorded to have advised, June 19, 1857, that the church should declare that by what they had done they

had become "*guilty of the sin of schism,*" and "*rent themselves from the church.*"

Dr. E. STREANE, in a letter which appeared in the *Freeman* newspaper of Dec. 24, 1846, said, that "the purpose to organize a Christian church, on the [open-membership] *principles avowed*" by those who built Oakland's Chapel, Shepherd's Bush, above referred to, was "worthy of all commendation." Yet on June 20, 1857, he recommended the church at Norwich, to declare that those *true Christians*, who were suffering a *forced exclusion* from a portion of their rights, had, by serving God consistently with the rules of *that church*, "*separated themselves from the church, and*" that they "*ipso facto* cease to be members of it." If *all true Christians* are entitled to church membership, how could the exclusion of these true Christians from membership, be justified?

The TRUE VALUE of the above letters of advice seems to be this: to show how those who hold the principles of the respective writers act, when in keen pursuit of their desired ends; what unity of spirit and of purpose guides them; and what estimate is to be formed of their statements, plans, and mode of action, when endeavouring to promote what Mr. Hall called a "revolution" in Strict Baptist churches, and Mr. Kinghorn, "the annihilation of the Baptists as a distinct body of Christians." (*Kinghorn's Life*, p. 412, Exhbt. 39). It must not, however, hastily be inferred that they would, knowing it, sanction injustice. If in any case, persons are thought to have brought a charge of *sin* against those who, instead of sinning, *suffer*; to have spoken of their *wrongs*, as if they were their *crimes*; and to have prompted *aggressors* to inflict on those whom they have *driven from home*, ecclesiastical death, and civil disinheritorance, let every allowance be made for the mistakes which may attend the keen pursuit of a desired end.

Mr. WOOLLACOTT "wrote as a Strict Baptist," yet called "the conduct" of the strict members in observing the Lord's Supper as they had done, according to the rules of this Strict Baptist church, and their own right, "disorderly." He said that their conduct "must be dealt with," that is, that they must be excluded; and he thus aided to deprive them and their successors of what was designed to be enjoyed by them for ever. No wonder that Strict Baptists have censured, and that others have made use of, this advice.

Mr. Woollacott afterwards became a witness in favour of the defendants.

June 29, 1857. IV. TWO DECLARATIONS were presented, signed by 132 members. The first by 92 adhering in *principle as well as practice* to strict communion, the other by 40 members, who though adhering to the *practice* of strict communion in that place of worship, were not convinced that the opposite practice was *in itself* wrong, but felt it to be wrong, in *this church and this building*. The two Declarations were read by the pastor. (*Ch. Bk.*) Most of those who signed them had signed also a second copy of them, which was presented to Mr. W. Norton, the trustee, but that copy, having been presented to him before the other copy was presented to the church, did not contain some of the signatures which were added to the latter. Mr. Norton's copy (see *Exhibits K. 23 and 24*) contained 85 signatures to the first, and 31 to the second declaration. Before the duplicate designed for the church, was presented, a copy of it, and of all the signatures, was made. This is *Exhibit K. 44*. At the bottom is the following authentication:—"We, the undersigned, having compared the above with the original declaration, hereby declare this to be a true and faithful copy of the same. JOHN BARBER, WILLIAM MOLL, WM. WALES, RICHARD SPALDING, JOHN WOODHOUSE."

Mr. Gould and Mr. Benjamin Alexander, in an affidavit sworn Nov. 9th, 1859, in this suit, gave the names of only 55, instead of 92 persons, as those who *actually* "signed" the first of the two presented to the church. Thirty-seven names occurring in the midst of the 92 signatures, that is the names from 41 to 77 inclusive, are by the said deponents sworn to have been those of persons who actually "*signed*" the second declaration,\* and are placed after the forty names of those who really signed it.

\* The names are:—Elizabeth Tomkins, Jonathan Green, Jacob Bowhill, James Matthews, Sarah Pitchers, Sarah Breeze, M. A. Flood, J. F. Flood, William Gilbert, Henry Randall, Sarah Randall, Maria Spinks, Mary Ann Bullen, John Bullen, Sarah Rix, Sarah Smith, Charles Spinks, Susan Plummer, William Emms, Jonathan Custance, Lydia Jary, William Alexander, Henry Pope, Fanny Pope, E. Alexander, Hannah Plummer, Rachel Plunkett, Mary Ann Atkins, Sarah S. Kerrison, Christiana Hendry, Deborah Howes, Elizabeth Salter, E. Harris, Ann Ringer, Elizabeth Gates, Charlotte Mary Playford, and Charlotte Oxley.

Most of those 37 names are among the names signed by the parties themselves to the first Declaration in the copy of it presented to Mr. Norton. The editor hopes that he has not fallen into any error in making this statement; for he is aware that if the facts are as he has stated them to be, it will seem certain that what was sworn to, as to the said names, was contrary to *actual* fact, and that the inquiry may be made how far the deponents had reason, in the document before them, to believe that what they said on oath was true. On a point so important to character, the editor wishes to abstain carefully from everything but a statement of the facts as they appear in evidence. By the said affidavit, those who signed as *Strict Baptists in principle*, were reduced from 92 to 55; and those who signed the other Declaration, were raised from 40 to 77.

"DECLARATION [I.] That we, the undersigned members of the Particular Baptist church, meeting in the Baptist meeting-house in the parish of St. Mary, Norwich, believe that the Lord's Supper is a church ordinance, and that none should be received to it, or to full church membership, who have not been immersed on a profession of faith in Christ; that we regard the admission of several persons, who had not been so immersed, to commune with the church in the celebration of the Lord's Supper, on the first Sunday in April, 1857, as at variance with the trusts of our place of worship. That by the practice thus introduced, we are deprived of the ability to worship God there according to our consciences, and also according to the former practice of the church, and the sole purpose for which the property was put in trust; that those whose sentiments require the practice thus introduced, are not entitled to the use of our place of worship, and that we, so long as we faithfully adhere to our sentiments above expressed, are entitled to the use of that property as before; and in order that there may be no doubt or uncertainty, now or hereafter, on this point, we hereby declare that we, who, by the introduction of the said new practice, are deprived, for conscience' sake, of our accustomed rights and privileges, have the aforesaid deep convictions. Signed April, 1857." Signatures, 92; "JOHN BARBER, Thomas Potter, William W. Yarrington," &c., &c.

"DECLARATION [II.] We, the undersigned, members of the Particular Baptist church, mentioned in the Declaration written on the first page of this sheet,

agree in that Declaration, with this exception; that, to express our view, the words 'in that place of worship' must be added, after the words 'and that,' in line third, so as to read, 'and that in that place of worship none should be received,' &c.; since we do not object ourselves to commune with believers who have not been immersed; but object to the introduction of the practice into that meeting-house, as at variance with the ancient practice of the church, and a violation of the trusts on which the meeting-house is held."

June 29, 1857. V. REFUSAL BY MR. GOULD, AND OTHER INDIVIDUALS, TO PERMIT THE STRICT MEMBERS TO ACT AS MEMBERS AT CHURCH MEETINGS. No members of this church are actually under church censure or discipline till a vote of the church has passed it upon them. The tenth of the original articles of the church declared that "unto this church," composed of baptized believers, "is committed the power of putting in operation all church censures, admonitions, withdrawing communion," &c. But from June 29, 1857, there were individuals who endeavoured to prevent the strict members from taking part in the business of church meetings, and did so on the alleged ground that they were under church discipline, though no vote of the church had placed them under it. If those members wished to place them under church discipline, the proper course was to submit a proposition to that effect to the church. But instead of this they persisted in what other members regarded as lawless misdemeanour, which violated still further the rights of the strict members.

MR. BARBER AND MR. WALES proposed that the Declarations, together with the signatures, be inserted in the church book. Mr. Tillyard said that these members were incompetent to make the motion; they were "under the discipline of the church" (*Ch. Bk.*). "An amendment," to their proposal was moved by Mr. Colman and Mr. James King; a course which admitted that they were competent to make the original motion. Mr. Fletcher also recognised them as "fully competent to exercise all their rights as members of the church, both in speaking and voting upon all questions." The amendment proposed arbitration, and "it was understood," says the Church Book, that the Declarations presented "should not be dealt with until the result of the arbitration was known." That time never came.

The same attempts to prevent the Strict members from taking a part in church business continued, and did so even after the Bill had been filed, in May, 1858. On Feb. 1, 1858, Mr. Gould refused to take an objection made by Mr. Willis. (*Ch. Bk.*) On May 30th, the Strict members were urged to leave the meeting, but maintained their right to be there. (*Ch. Bk.*) On Dec. 29th, 1858, Mr. Gould refused to let Mr. R. Spalding speak; (*Ch. Bk.*) and on Jan. 31, 1859, he declared to several strict members that he would not hear a syllable from them. (*Aftt. Willis and others*, p. 8, 9). At length these members resolved to compel him to shew his right to treat them thus. On Feb. 28, 1859, Mr. John Barber asked him to point out any resolution of the church which had placed him under church discipline, and insisted on an answer. The indefensible nature of Mr. Gould's conduct may be judged of by the result. He "immediately dissolved the meeting," nor ventured to hold another, so far as the editor knows, up to the time when judgment was given in the Rolls Court. (*Same Aftt.* p. 10).

June 29, 1857. VI. MR. GOULD'S PLAN OF ARBITRATION. The amendment proposed by Mr. Colman and Mr. King was to the effect that it was "desirable to have the legal question settled by arbitration, and that all further proceedings in relation to communion, be deferred until the result of the arbitration be known." (*Ch. Bk.*)

Mr. Gould "intimated his willingness to submit the question of the legal construction of the Trust Deed, in regard to communion at the Lord's table with unbaptized believers, to the arbitration of one or more persons, mutually to be agreed on between the Rev. W. Norton, and himself, on the understanding that the result of such arbitration should be accepted as a final settlement of such question; the pastor expressly binding himself to resign his office, in case the result is adverse to the resolution of the 11th day of March, 1857, and Mr. Norton being bound in case the result is adverse to his interpretation of the Trust Deed, to abstain from all legal proceedings."

The church resolved to abide by the result of such arbitration. (*Ch. Bk.*)

June 29, 1857. VII. WHAT TO BE DONE WHILE THE LEGAL QUESTION WAS PENDING? This very proposal for arbitration declared that the lawfulness of the new practice was questionable.

The practice ought therefore at once to have been *stopped*, till the question of its lawfulness was decided. "Whatever is not of *faith* is sin." But instead of that, immediately after this proposal had been adopted, Mr. Gould insisted that the dissentient members "ought" to accept of the *new strict service which he offered*. By accepting it, they would have declared that their conscientious objections, and the maintenance of their right to attend all services, could be surrendered by them at discretion; so that the necessity for that arbitration would, by that very acceptance, have been virtually set aside; for if their principles permitted them to do this for a time, they might do it always. If a person were stripping an estate of timber, it would be a strange proposal for him to offer to *submit* to arbitration, on condition of having leave, meanwhile, to cut down every tree.

Mr. Wales replied to Mr. Gould, that that offer would not meet the case, as the brethren *stood upon their rights*, and insisted upon meeting to eat the Lord's Supper on the afternoon of the *first* Lord's-day of each month, that is, at the principal service from which they were now *excluded* by the admission of the unbaptized. (*Ch. Bk.*)

June 29, 1857. VIII. MR. NORTON'S LETTER OF JUNE 10th, REQUESTING LEAVE TO INSPECT AND MAKE EXTRACTS FROM THE CHURCH BOOKS, was not read till after Mr. Gould's plan of arbitration had been proposed and adopted. It was then concluded, "that no action thereon was necessary at the present time." (*Ch. Bk. min. 5.*)

CHANCERY. Papers had already been laid before counsel, relating to the supposed necessity of a Chancery suit. (*W. N. to Mr. Ivimey, June 16th.*)

June 30, 1857, Tuesday, Mr. GOULD sent to Mr. Norton the PROPOSAL FOR ARBITRATION, begging that "an immediate intimation whether" he accepted it or not, might be sent to him "at Wood's Hotel, Furnival's Inn, London," where he would be on Thursday to receive it. (*Elabit. P. 3.*)

July 1, 1857. MR. NORTON AS TO THE CHURCH BOOKS, EVIDENCE, ARBITRATION, AND A GIFT TOWARDS A NEW CHAPEL FOR THE FREE-COMMUNION MEMBERS.

He replied *first* that "no notice whatever" was taken in Mr. Gould's letter of the request as to the *church books*. Next, that he, Mr. N., *renewed* the statement he had made at Norwich, of his readiness "to receive any evidence" which could be adduced to show that the

chapel could be "*legally used* by those who are not Particular Baptists, and members or communicants of that Particular Baptist Congregation for the time being." He said, "I am directed as a trustee to judge of this question myself, and *if you have no evidence to adduce*, feel that it would be unsafe to the interests of the *cestuis que trust*"—(the persons beneficially entitled under the trust,) "to place myself under such an obligation as you propose, for several reasons; first, you have evaded any direct reply to my request to examine the church books, which is not courteous, and has, for the present, the *effect* of a refusal," &c.; "secondly, the decision of the most eminent counsel, after knowing the fact of Mr. Kelf's separation, applies with greater force to present circumstances, and if their decision is not respected, I know of no parties whose opinion is more worthy of confidence. Thirdly, the refusal to state the facts respecting Mr. Kelf, when a case was prepared by the trustees jointly, shews that party feeling is so strong on the part of some of the free-communion members, that it is unsafe to bind oneself, in any manner, to any proceeding, the whole details of which are not presented, and fully known." Lastly, he said that he had not yet had time to consult those whose interests were "most concerned." He *renewed* his request as to the *church books*.

He said that "if the *object* of the resolution of the church," as to arbitration, were to come to "an equitable and amicable settlement," he thought, though "personally unconcerned with the subject as trustee," that it might best be obtained by the concession of a sum of money to Mr. Gould and his friends, "by the remonstrants, on their own choice, and not as a question of legal right." Mr. Norton suggested this as a course of settlement kind, honourable, and becoming to both parties. It would have been generous on the part of those who denied entirely the claim of the free-communion party to use that chapel for their services; and have aided the free-communion body to provide a chapel where they could carry out their system without depriving others of their unquestionable rights.

July 1, 1857. CAUTION SUGGESTED.—MR. REUBEN WILLIS, a church member, and afterwards a plaintiff in this suit, wrote thus to Mr. Norton: "The [strict] brethren pledged you to nothing. You are therefore left perfectly free, to act according to the best of your judgment.

I think the case requires you to act with great caution, as I feel confident you will have all the talent, tact, and influence of the advocates of free communion residing in London, to contend with . . . If you think it right to accept of their offer, be careful to whom you refer the case. Don't be hurried by them, but take time to consider before you give a pledge. . . .

"It is generally admitted that the practice of any people is the best proof how they understand their laws. The author of the pamphlet I sent,\* admits that the practice of the church at the time when the property was put in trust, was most probably strict communion. It therefore follows that it was put in trust for persons who understand this to be the law of the New Testament."

July 2, 1857, Thursday. CHURCH BOOKS AND ARBITRATION. MR. GOULD informed Mr. Norton what had been the decision of the church on June 29th, respecting the church books. He also said "I renew the offer . . . to submit the case of communion at St. Mary's, as it now stands, to arbitration upon the conditions expressed" in the proposal of June 29; and he requested the favour of an answer to this renewed proposal, on the Saturday following, at Furnival's Inn, saying, "I shall wait in town on purpose that I may know your decision." (*Exhibit. P. 3.*)

"As it now stands:" E. Bayes was baptized on July 1. A letter, dated July 12th, informed Mr. Norton that a free communion member had said that many of his friends thought they should be obliged "to return to the practice established by Mr. Brock."

July 2, 1857. MR. NORTON, WILLING TO ACQUIESCE IN ANY EQUITABLE ARRANGEMENTS. Writing to Mr. John Barber, a church member, Mr. Norton said as to Mr. Gould's proposal that he should bind himself by a pledge upon such terms, "I have declined thus to bind myself; not that I am unwilling to acquiesce in any equitable arrangement, but that this is not the safest, and, I think, the best plan. The former proposal to take a joint opinion"—that of Aug. 23, 1845—"was used to present a case omitting the most material point." Mr. Norton stated also what he had said

to Mr. Gould as to an "amicable settlement."

July 4, 1857, MR. NORTON, in reply to Mr. Gould's letter of July 2nd, said as to the CHURCH BOOKS, "Until you are authorised to treat me with the confidence necessary to enable me to form my own judgment respecting their contents, I must reserve my own duty of judging what is right, undelegated . . . I have not to ask the mere resignation of the place by yourself, on the ground that your practice is a breach of the trust, but of all whose practice has long been a breach of it, and not merely from the 11th day of March last. I have to repeat, therefore, my request to the whole church for permission to examine and make extracts from the church books."

July 4, 1857. MR. NORTON, writing to Mr. John Barber, a Strict member, said: As to the proposed STRICT COMMUNION SERVICE "By assenting to [it], you would be understood to acquiesce in the continuance of the change made as to the first Sunday service; and your numbers would be gradually drained off into that service. After [their] ranks," he said, had been thus thinned, the free communion members might (for he had heard that such a service had in another case been soon given up), "send the rest away."

As to Mr. Gould's PLAN OF ARBITRATION, he thought that if the decision were adverse to Mr. Gould, he "would resign, but another, just like him, would fill his place; the practice introduced on the 11th of March would cease, but any other practice which had existed before, or could be invented afterwards, might be substituted." If the decision were adverse to Mr. Norton, "I myself," he said "having pledged myself to desist from all legal proceedings, could not, on discovering too late any improper means of securing that result, act as my obligations...might otherwise require."

As to arbitration on equitable terms, he said, "you know that I shall not be unwilling to acquiesce in what is safe and sufficient." Part of this letter, referring to arbitration, is said to have been read at a church meeting, held the same month. J. B., Feb. 11, 1859.

July 7, 1857. First Sunday of the month. The protesting members FORBORE TO EXERCISE THEIR RIGHT TO OBSERVE THE LORD'S SUPPER, ACCORDING TO THE STRICT COMMUNION RULES OF THE CHURCH. They did so, not because they doubted their right so to observe it,

\*"The communion question at St. Mary's, &c. (*Exhibit K 30.*, p. 14, l. 35.) An affidavit in this suit states that the Defendant, Mr. Robert Tillyard, is the author of this pamphlet. (*Willis and others*, Afft. ph. 19.)

but at the request of the pastor. There had also been misrepresentation. It was said that they had formed a separate church. *Ch. Bk.*, July 27; *R. W.*, June 25, 1857.

July 13, 1857. LEAVE TO EXAMINE CHURCH BOOKS REFUSED: ARBITRATION. Special church meeting. Two resolutions. The above correspondence between Mr. Gould and Mr. Norton as to the church books, and arbitration, was read.

Resolved, on the motion of Mr. Fletcher and Mr. Tillyard: "That the church books being the private records of the proceedings of the church, are not accessible to any but members; but that whatever information Mr. Norton, as a trustee, requires relative to the usages or constitution of the church, we are fully prepared to give at any time." (*Ch. Bk.*)

Resolved also, on the motion of Mr. Fletcher and Mr. John King, that this church "requests the pastor to renew the negotiation with the Rev. W. Norton, on the basis of the minute of the church-meeting, of June 29, 1857, and to urge it by all means on his attention."

Mr. Barber is said to have "informed the church that Mr. Norton had stated in a letter, addressed to him, *his willingness to arbitrate upon the question, upon conditions which were not stated to the church.*" (*Ch. Bk.*)

It was asked at this meeting whether, if Mr. Norton still refused the said plan for arbitration, the protesting members meant to "break off connexion" with him; but "no response" it is said was elicited from any of the brethren so appealed to. Mr. Barber, Mr. Gooderson, and Mr. Moll, were "addressed personally," but "each declined to give any pledge" as to "what his conduct in future would be." (*Ch. Bk.*)

This "offer of arbitration," it was argued, was "intended to settle the legal question at once and for ever." The right to use the chapel had been said to be "restricted to Particular Baptists holding" strict communion, and therefore "through their non-acceptance" of the proposed separate service, "a settlement of the legal question was an essential condition of any arrangement" between the church and the protesting members. (*Ch. Bk.*)

By common consent, therefore, the legal question was now the question which had to be decided. The only difference was as to the means of obtaining, if possible, a just decision, founded upon a full consideration, not of some, but of all the facts of the case.

July 14, 1857. CHURCH BOOKS: EXTRACTS PROMISED. ARBITRATION: MR. GOULD'S PLAN URGED A THIRD TIME. Mr. Gould forwarded to Mr. Norton a copy of the above two resolutions of July 13th, and said, "I am fully prepared to furnish you with all the information which you may apply for as to our usages and the constitution of the church."—*Exbt.*, K. 3.

He again urged the acceptance of this proposal as to arbitration, saying, "I trust you will not hesitate to accede to" it; but "will appoint the earliest day which may suit your convenience for entering upon the discussion and settlement of the necessary preliminaries."

He said that "the church intended the resolution" of June 29th to mean that, if open communion should be declared a violation of the deed, "no attempt [would] be made to preserve any service in which unbaptized believers [might] commune, in that chapel, with baptized believers, who are members of the church worshipping therein." If the church had added words expressly stating this, it would have removed one ground of objection to the original proposition; but the meaning of that proposition was not sufficiently clear and express, and the church never altered it in any way. Mr. Gould said of Mr. Norton's reasons for not placing himself "under such an obligation as" Mr. G. had proposed; "neither the reasons themselves nor the manner in which you have conveyed them to me can be approved of your own deliberate judgment. Differences in judgment can never be an apology for the violation of truth or charity."\*

Mr. Norton had given to no one reason to think that he would oppose equitable arbitration, if the question could not otherwise be settled. But the impression made on him by past events above referred to, and even by the proposal then before him, was that others would not agree to submit the whole case to arbitration, on terms equal and fit. The earnestness with which this plan was urged, tended, after what had passed, to make his hope the fainter. The fond partridge, when her brood is near, flutters, as if with broken wing; but vain

\* If this imputation, however unfounded it may be felt to be, had affected Mr. Norton only, it would not, even though it had been read at church meeting, and is part of the exhibits in this suit, have been inserted here; but it refers to facts connected with the case itself.



is pursuit. Mr. N. feared that pursuit in this case, would be as vain. He expected soon to be able to put it to the test. For the present, he was intent on ascertaining for himself, the nature of the evidence by which the lawfulness of the new practice could be proved, and of the contents of the church books; which contents were equally important, whether the case might be submitted to arbitration or to Chancery. And if satisfied by these, and the evidence which might be given by the free communion party, that there was no breach of trust, it would be his duty not to interfere.

Mr. Gould "implored" him not "to drag [his] brethren" into Court; said that Christ forbade "*brother* to go to law with *brother*;" it would do *them*, the free communion party, "*a grievous wrong*;" "*the legality of [their] conduct [might] be determined by a friendly and united appeal to men conversant with the law, and the scandal of a suit between Christians avoided.*" There was no "*necessity*" for Mr. Norton "to enter upon any suit to enforce the claims of justice."

What a difference between these entreaties, and the conduct of the trustees on Sept. 18th, 1847, and April 11, 1857. How could it be accounted for? Besides, had not men conversant with the law been appealed to? Had not their last opinion been scornfully rejected? Were not the persons who now talked of suffering "*a grievous wrong*," those who were alleged to persist in inflicting such a wrong? Mr. Norton stood in no church relation to any of them. Nor was the duty which devolved on him a duty of Christianity as distinguished from natural duty. He was acting, not as a church member, but as a trustee; was acting in a civil, not a religious capacity; and if the trust which he was pledged to guard, was violated, his duty was the same, whether the violating parties were called Christians or not. It is no protection to a person before a magistrate, for him to say that he and the magistrate are both Christians, and that it would be wrong, very wrong, for Christian to commit Christian. All feel that the less said in such a case by the person whose conduct is in question, of his Christianity, the better. And is not the rule the same on all points relating to a breach of natural duty? Mr. Norton, however, was resolved that in no case but that of necessity in order "to enforce the claims of justice," would he become a party to a suit in Chancery. The labour, anxiety, cost, and liabilities

as to property and health, were all too serious to be incurred on any consideration but one of *such necessity*. The above entreaties were used to induce him to accept the *specific basis* proposed by Mr. Gould, and this had peculiarities which will soon appear.

July 14 and 15, 1857. ARBITRATION: SUPPOSED NEED OF CAUTION. A member of the church, writing to Mr. Norton, said of the church-meeting of July 13, that a hope was then expressed that as Mr. Norton "*had not positively refused to submit the case to arbitration*," it might yet be settled without going into Chancery." The writer advised Mr. N. to be cautious. He feared that stratagem would be used to entrap him. Let him take time to consider, let him consult all his friends, before he gave any pledge.

Whether that fear might prove to be well founded or not, the renewed caution enforced double care.

The writer also said, "I think that Mr. Gould's resignation of office is not a sufficient guarantee that the practice will be discontinued, or that, if dropped for a time, it will not be resumed again. We must have something better than that."

July 14. Another member stated that a certain person had declared that he would suffer his right hand to be cut off rather than allow Mr. Norton to see the books.—*Exhibit*, P. 3.

July 18, 1857. EXTRACTS REQUESTED FROM CHURCH BOOKS; OBJECTIONS TO PLAN OF ARBITRATION. MR. NORTON, writing to Mr. Gould, requested the express words of all entries in the church books, of a certain kind. He was ignorant of most of the contents of the books, and could only, by general questions, endeavour to elicit the information sought.

He urged again the production of EVIDENCE THAT THE NEW PRACTICE WAS LAWFUL IN THAT PLACE. He said;—"I repeat that I am ready to judge of ANY EVIDENCE you have to lay before me, in proof that a limitation of property to a certain congregation of Particular Baptists, includes Wesleyan Methodists. Episcopalians, Independents, and persons connected with no church whatever, as persons entitled to use it to the exclusion of some of its own members. You have hitherto admitted, by your silence, as I have understood it, that you have no proof whatever to adduce of this. Why do you insist on arbitration, instead of first adducing

*proof yourselves."* The word **FIRST** was so emphasized in Mr. Norton's letter. "I ask for this evidence *first*, and I ask it of you as persons professing a wish to act as it becomes Christians. If, after receiving evidence, to be adduced by the church, that *open communion*, as advocated by John Bunyan and Robert Hall,\* can be rightfully adopted in that place of worship, that is, conformably with the trusts of 1746, I am convinced by it, then as trustee my duty to interfere is at an end. If I am not convinced by it, *the basis of arbitration will need to be revised before it will suit the case.*"

**THE PRINCIPAL ALLEGED BREACHES OF TRUST were five:—**

1. The *separate free communion service* instituted by Mr. Brock in 1845.

2. The resolution to admit Elizabeth Bayes to eat the Lord's Supper *with the church* when unbaptized, "**AS A MEMBER,**" and *her actual admission.*

3. The resolution of March 11, 1857, to admit *all believers* to partake of the Lord's Supper *with the church*: on which, two distinct varieties of practice were founded, that is:—

4. The reception of any unbaptized believers, whether Independents, Presbyterians, Episcopalians, or of other views, to **PERMANENT COMMUNION** with this church in the Lord's Supper (except once a month, when they were to be *excluded*); and

5. The admission to the Lord's Supper of *all persons who pleased to accept an invitation* addressed "**to members of all Christian churches;**" an invitation which did not *except* the members of *any church called Christian*, but addressed itself to the members of them all, even though *not Particular Baptists*, nor *Baptists*, nor, in some cases, persons by whom any evidence had been given that they had *saving faith* and were *born again*. Might not even Socinians have accepted such an invitation?

**THE TERMS OF THE TRUST DEED**, on the other hand, limited the beneficial use of the building to this "*congregation of Particular Baptists,*"—to it *only*.

So that **THE PROPOSED BASIS OF ARBITRATION** WAS **OBJECTIONABLE** for these various reasons:—

\* The pamphlet above referred to, as said to have been written by the defendant Mr. Robt. Tillyard, *Exhibit, K. 30*, at p. 21, includes Bunyan among "the warmest advocates of free communion," and immediately the writer adds, "I am proud to be identified with such men as these by my free communion."

1. It defined "**THE QUESTION**" to relate to the lawfulness in that chapel of "*communion at the Lord's table with unbaptized believers.*" To this definition there were three objections: first, the resolution to admit E. Bayes related to *membership* as well as to the Lord's Supper; and the arguments which had been used in favour of free communion, *involved and required* admission to full membership as a *duty* also. Next, according to the trust deed, not even *baptized* believers, unless they hold the doctrine of *Particular Redemption*, and are either permanently or transiently part of *this church*, are entitled to a beneficial use of the property; so that the question related to who, even among "*baptized,*" as well as "*unbaptized,*" believers, are entitled to the use of it. Thirdly. The word *believer*, as used by Particular Baptists, denotes one who has experienced a *saving change*, but the common use of it in the Church of England and elsewhere is to denote one who *assents to a Christian creed*; and unless a *more DEFINITE term* than "*believer*" were used, the arbitrators might decide that any one *professing to believe the truth of Christianity*, was to be assumed by them to be a *believer*.

2. **THE QUESTION** was further and *wrongly limited* by another clause. It was provided that Mr. Gould was to resign on condition that the decision was "*adverse to the resolution of the church-meeting of May 11, 1857,*" which would incline the arbitrators to regard that resolution as comprising, for all practical purposes, *the whole of the question* before them, and would tend to exclude the consideration of Mr. Brock's *separate free communion service*, and to leave that service to be maintained even if the later practice had to be abandoned.

3. **THE EXPRESSLY STIPULATED BOND**, in case the decision should be *adverse to the said resolution of March 11*, was that the pastor was to "*resign his office.*" *The free communion members* were not bound expressly, but only as the arbitrators should determine, to renounce or not all attempts to carry on there, *under any pastor, the practices founded on the resolution of March 11*, and the *separate service* commenced by Mr. Brock. If a part only of these services should be expressly set aside by them, there was nothing in the proposed pledge to prevent the other part from being practised at pleasure.

4. **THE RESULT** of this plan, was to be, without limitation, "*accepted as a*

FINAL SETTLEMENT of the question, in regard to communion at the Lord's table;" although Mr. Brock's Lord's Supper service was not named, and express reference was *limited* to the resolution of March 11; so that though the effect was to be *general*, the ground of the decision might be *limited*; and if, after that decision, the free communion members had gone back to Mr. Brock's *separate* service, those members might have said, The decision was, indeed, adverse to the resolution of March 11, but did *not* relate at all to Mr. Brock's service. Nevertheless you pledged yourselves to accept that decision as a *final* settlement of the *whole* question of communion at the Lord's table, and you are therefore *bound* not to interfere.

5. THE BOND TO BE GIVEN BY MR. NORTON, (who, for some reason, was singled out from all persons who were competent to file a bill in Chancery on the part of the strict members, as the *only* one who was to be pledged and bound not to do so), was this, that in case the decision *actually* come to was "adverse to his interpretation of the trust deed," he was "to abstain from ALL legal proceedings," without any condition as to whether the decision were adverse *in part* or *in whole* to his interpretation of the deed, or were come to upon a consideration of a *part* or the *whole* of the alleged breaches of trust as to the Lord's Supper; and he was to give this bond, as one who was acting for the *strict communion members*, though, on the other hand, the free communion members were *not* to be bound to *any thing more specific* than "to abide by the result."

MR. NORTON'S CONSENT TO ARBITRATION WAS NOT INDISPENSABLE TO IT. This plan of arbitration, if his name had not been in it, might have been pursued, *without even asking his consent at all*. It was only on account of this attempt to *bind him*, (as if he, though *utterly weak*, unless there were a breach of trust, were terrible to them as a Samson) that they needed to make him a party to it at all. But if they *would* propose to bind him, he was at liberty to say with what he would be bound; or, if he pleased, to decline all fetters, and say that, as a trustee, he had a *right* to *freedom*.

THE USE WHICH HE MIGHT EXPECT TO BE MADE OF SUCH A PLEDGE may be judged of by the use actually made of his *conditional* pledge, given reluctantly and in consequence of urgent entreaty, on August 30, 1845; and particularly

by the use which Mr. Gould has himself made of it *since* Judgment in the Rolls Court was given. In a sermon already mentioned, preached after that decision, and "published by request," he has said, p. 15, that Mr. Norton, after having given that pledge to "abide by the opinion of the counsel *on the case* [*then*] *laid before them*," provided that every thing should be done with "perfect fairness," "REPUDIATED THEIR DECISION!"

The reader needs not to weary himself with further details; but, if they are asked for, they are these:—

In a letter to the trustees, dated Jan. 30, 1846, (printed in the pamphlet which Mr. Gould referred to when making this charge,) Mr. Norton said of the opinion, "the first sentence is the only one which refers to the point at issue, and this states that it is the duty of the trustees to preserve the meeting-house as a place of worship for *all Baptists* residing in the city of Norwich, which most certainly implies that some Baptists are not to be compelled to *DISUSE* the place for the sake of receiving those who are not Baptists, to share with Baptists in acts of special and distinctive worship in this place. The fact, therefore, that this practice will exclude some Baptists from an equal use of this place—a fact which was not known to counsel—shows that the trusts *are broken* by this practice. The first paragraph of the *opinion*, therefore, taken in connection with this fact, *requires* that the trustees immediately insist on the discontinuance of the practice." This, instead of being a repudiation of "the opinion," was a declaration of what it *REQUIRED*, if a certain thing, unknown to those who gave the opinion, but known to most of the trustees, were taken into account.

Suppose, however, that Mr. Norton had repudiated the opinion, and filed immediately a Bill in Chancery: the belief expressed in Mr. Wilkin's note of April 20, 1846 (p. 10 preceding, under Aug. 30, 1845), that a document was, *without authority*, included in the case, would, if correct, as Mr. Norton considered it to be, have proved that the *breach of this condition* as to "perfect fairness," had released him wholly from the pledge he had given upon that condition; especially as Mr. Wilkin said that even with this condition attached, the pledge was given "in reluctant compliance with an importunity, which ought not, I think, to have been carried so far."—*Erbt.* P. 2.

And, besides this, the case on which

Mr. Norton took a further opinion was in part a *new case*, it stated a *fact* on which those counsel had not yet given an opinion, that is, *the exclusion of Mr. Kelf*. The opinion given on a case which did not contain that fact, could not be repudiated by taking another opinion on another case, which did contain it. On this point Mr. Gould answers himself; for in reply to the objection made by Mr. Norton, that the pledge required of him by the proposed plan of arbitration, bound him to "abstain from ALL legal proceedings, including those which refer to breaches *not included in the question submitted to arbitration*," Mr. Gould said, "You must be well aware that the legal proceedings referred to, would, *in the very nature of things*, be understood as those relating to the *question submitted to arbitration*." (*Exhibit, K. 38, Jan. 15, 1858*) No doubt they ought to be understood to relate to those only, and on this ground, the taking of an opinion upon *Mr. Kelf's exclusion*, which had not formed part of "*the question submitted*" to counsel, could not possibly be a breach of a pledge made as to the *question* so submitted; and Mr. Norton could not be said, by taking such an opinion, to *repudiate* any pledge which might have been given as to a *different question*.

Yet now Mr. Norton is publicly said to have *repudiated a decision* by which he had pledged himself conditionally to *abide*. Mr. Norton had reason to be aware of pledges which might afterwards be so used.

BUT WERE THE ABOVE OBJECTIONS TO THE SAID PLAN OF ARBITRATION KNOWN BY THOSE WHO INSISTED UPON *this and upon this plan only*? It is not likely that a plan founded, no doubt, upon the best advice, would contain provisions, the effect of which was unknown either by Mr. Gould or the able men who may have counselled or approved it. And if the members of the church did not see these objections when the plan was first proposed to it, they were afterwards stated by Mr. Norton, partly in the above letters of July 4 and 18, 1857, and partly in others of January 8, 13, and 16, 1858. These letters were all read to the church. The objections contained in them and that of July 1, 1857, were also extracted by Mr. Gould, and arranged under thirteen heads, and were read a second time, it is said, to the church on 1st Feb., 1858, before the resolution was passed on that very evening declaring that it was the opinion of the church that further correspondence

on the subject "should cease." The objections are placed on record in the church book under date of Feb. 1, 1858.

July 18, 1857. Mr. Norton, in his letter of this date, objected that the proposal for arbitration limited the question to the *Lord's Supper only*, and to the lawfulness of admitting "unbaptized believers," instead of the lawfulness of admitting any persons whatever, to it, or membership, who were *not* "*Particular Baptists and members also of that or some other church of Particular Baptists*;" also that the proposal made the resolution of March 11 "*the sole question for decision*;" and he said also, "if free communion cannot be practised *there*, the proposal to arbitrate ought to pledge those who have avowed it to be a *sacred duty* to practise it, that they will withdraw from that place, *that* being the only course they can pursue without abandoning the principles and practice they have avowed to be binding on them."

As to his ALLEGED VIOLATION OF TRUTH AND CHARITY, Mr. N. said, "The Lord will rebuke you if you are wrong, and I leave him to answer for me."

As to EVIDENCE to be adduced by themselves, he said:—"You decline to lay before me the *evidence* I ask for from you; you urge to an arbitration suit before men 'conversant with the law,' and yet deprecate the scandal of a suit between Christians. Is this consistent? As TRUSTEE, I hope to act *honestly* in discharge of my pledge."

July 21, 1857. Mr. GOULD to Mr. Norton.—*Exhibit. K. 37.*

ADMISSION THAT THERE WAS NO EVIDENCE SUCH AS MR NORTON ASKED. "It has never been asserted," said Mr. Gould, "that I know of, 'that a *limitation* of property to a certain congregation of Particular Baptists, *includes* Wesleyan Methodists, Episcopalians, Independents, and persons connected with no church whatsoever, as persons *entitled* to use it to the exclusion of some of its own members.' When I am sufficiently forgetful of the meaning of words to make such an assertion, I dare say that I shall attempt to prove it also, but at present I do not feel bound to undertake the task." "If your acceptance of the offer of arbitration depends upon our giving 'evidence' of such a proposition, I am sure that it must not be looked for. Those who 'wish to act as it becomes Christians,' cannot be expected to prove themselves fools. The '*limitation*' of a bucket is never sup-

posed by sane men to 'include' the ocean."

Some such persons were actually admitted to the Lord's Supper, and their admission to it *excluded* from that ordinance, at those times, members of the church. Yet, by the above words, Mr. Gould admitted that such persons had NO TITLE whatever to the use of the chapel, except so far as every chapel is open by law to any one who pleases to enter it as a spectator, or general worshipper. How was it possible, therefore, to justify this *exclusion* from the Lord's Supper of persons who *had*, by those who *had not*, a title to be there? No one denies that those members who adhered *conscientiously* to the former practice of the church, were compelled on these occasions to *keep away*. If a wife might be deprived of her peculiar rights as a wife, and another be admitted to them in her room, for a day or an hour, without a breach of propriety, then, indeed, might these members be deprived justly in such way of their rights also. If *high mass* might be performed in the chapel, then might the Lord's Supper be observed there with the "members of all Christian churches."

Mr. Gould proceeded to say,—"In the absence of any phrase in the Trust-deed which affects the question of communion at the Lord's table, I fling back the accusation [of a breach of trust], as a slander upon your brethren." This remark virtually *denies* what the former admits: for the deed cannot exclude all but members, from rightful use, without excluding all but members from the *privileges peculiar to membership*; and such a privilege the Lord's Supper has always been esteemed in this church. Nor does Mr. Gould himself deny it to be *rightly* so esteemed. The ground on which he admits "*all believers*" to the Lord's Supper, is that *faith* constitutes them *members* of the church of Christ. The Deed, therefore, is as conclusive as to the *Lord's Supper*, as it is respecting *full membership*. It cannot limit use to *this church*, without limiting use also to those *entitled to its privileges*, including that of the Lord's Supper.

To prove "*VIOLATION OF TRUTH*," Mr. Gould said that "*the facts alluded to*" in Mr. Norton's letter of July 1, 1857, "*had not occurred*" at the time of the meeting of trustees, on Aug. 30th, 1845, at which, Mr. N. said, there was a "*refusal to state the facts respecting Mr. Kelf*." (See p. 10 *preceding*). Mr. Gould assumed that these words referred

to "*the facts respecting*" Mr. Kelf's actual exclusion, which occurred a year later, that is on Aug. 31, 1846; and upon this error of his own imagination, he founded a charge which nothing but *proved fact and guilty intention* could justify. The facts Mr. Norton really alluded to, were these:—For some time before Aug. 30th, 1845, Mr. Kelf and other members had been and were still absent from the Lord's Supper; this absence was from a sense of duty, and in order to protest against the new service; and it was also a fact well known that *by this course they were exposed*, if treated according to the *usual practice* as to absentees, to *speedy exclusion* by the free communion members; unless the new service were given up, so as to enable them conscientiously to return. Mr. Norton's notes of his visit to Norwich, in June, 1845, state that he then heard members say that they felt bound, as a matter of conscience, not to observe the Lord's Supper with those who communed with the unbaptized; and for this reason, that if they were to do so, they would be giving a tacit consent and sanction to the new practice, which they felt bound not to do. He also heard that Mr. B. had said he had three charges against Mr. Kelf. On July 18th, 1845, Mr. Edmund Hastings, after stating that from the Lord's Supper that month, "*more of the brethren [had] absented themselves*," said "*we feel that we can do nothing further at present than continue thus to show our disapprobation of the measure*." (*Letter before the Ed.*) Among these members Mr. Kelf became remarkable as the first selected for exclusion. Messengers were appointed on June 1, 1846, to visit him; and on doing so said (as Mr. Kelf informed Mr. Norton, Sep. 21st, 1846.—*Ecclt. P. 2*), that "*they were come according to the usual practice of visiting persons who had absented themselves a twelvemonth*." Reckoning twelve-months from the Lord's Supper in May, 1846, Mr. Kelf, must, at the least, have been absent from the Lord's Supper since May, 1845. The ten members afterwards excluded were so in June, 1857. Mr. Norton mentioned Mr. Kelf as the one in whose case the facts to which he referred were, on Aug. 30, 1845, most unquestionable. That the trustees did actually refuse to insert a statement of the facts concerning the said absent members, was stated by Mr. Wilkin in his printed letter of April 20th, 1846. See p. 10 *preceding*, under Aug. 30th, 1845.

As to Mr. Norton's alleged VIOLATION OF CHARITY, it is sufficient to say that one of the things stated by Mr. Gould, as grounds for the charge, was this: "*The insinuations that myself and friends 'desire that [a] money consideration should be conceded to' us.*" These "insinuations" consisted of Mr. Norton's proposal, with a view to an *amicable settlement*, that a sum of money should be given by the *strict members*, in case the free communion members withdrew; a proposal which he viewed as in every sense a charitable, and in no sense an uncharitable one. How it could have been viewed otherwise he can scarcely tell.

"BETWEEN A FRIENDLY REFERENCE" to men "conversant with the law," and "a public contention for the mastery in open Court," Mr. Gould said there was an "essential difference." There was, it must be admitted, if the one was to be an act of *contention*, and the other an act of real *friendship*. But it is possible to make a reference to a Court of law as friendly as one to arbitrators. Mr. Gould added, "God has forbidden you to drag us into a court of law," which seemed to intimate that the difference he meant was one of Christian principle. But did he suppose that the words, "Dare any of you go to law before the *unjust*, and not before the *saints*," (1 Cor. vi. 1,) included BARRISTERS when made judges by the Crown, among "*the unjust*," and barristers chosen to be judges in arbitration, among the *saints*? If an appeal to the principles and practice of "*the saints*" who founded this church and this trust, and had a right to decide what was the worship to be conducted in this building, had been deemed sufficient by *all* to decide this case, there would have been no need to refer it to persons learned in the law. But when *lawyers*, as *lawyers*, are appealed to, it is vain to attempt to divide them into an unjust Bench and a saintly Bar.

This letter was accompanied by EXTRACTS FROM THE CHURCH BOOKS, containing valuable information.

July 24th, 1857. MR. NORTON to Mr. Gould.

Mr. Norton requested FURTHER EXTRACTS FROM THE CHURCH BOOKS in answer to other inquiries.

As to VIOLATION OF TRUTH, he said: "Please to prove that *no facts* to which I could refer [on July 1], were known respecting Mr. Kelf and others, at the time referred to [Aug. 30th, 1845], or confess the impropriety of imputing to

me a violation of truth on the grounds you have stated. You will find the fact to which I refer," that is the refusal of the trustees, "stated at p. 5 of a certain pamphlet, thus: 'the insertion of a statement that the new practice would have the effect of excluding several of those who adhered to the old practice,' &c. 'was refused.'" The pamphlet thus referred to was that containing the cases submitted by Mr. Norton to counsel, and printed in 1847, above referred to.

July 25, 1857. MR. GOULD to MR. NORTON.—*Exbt. P. 3.*

FURTHER EXTRACTS FROM CHURCH BOOKS were sent in answer to Mr. Norton's inquiries.

In answer to the request for a minute "*authorising the admission of members of all christian churches, including Wesleyan Methodists, &c., &c.,*" to the Lord's supper; Mr. Gould gave the resolution of Mar. 11, 1857.

In answer to the request for "the terms of any and every entry which shews that *any person* who had not been immersed on a credible profession of faith, has ever been received to communion with the church either at the Lord's Supper or otherwise," Mr. Gould could adduce nothing earlier than 1857, which was an admission that the practice of the church had always till then been Strict. The sole extract he gave in answer to this request was the second resolution, given under date of Mar. 30th, 1857,— "That those believers," &c., p. 18 preceding.

As to the alleged VIOLATION OF TRUTH, Mr. Gould no longer insisted that Mr. Norton had alluded to Mr. Kelf's exclusion, and had assigned to it a false date. He now admitted that Mr. N. "intended to refer" to the fact mentioned in the above named pamphlet, that the trustees refused on Aug. 30th, 1845, to state that several members (among whom was Mr. Kelf), were in danger of exclusion for conscientious absence from the Lord's Supper, occasioned by the new practice; but Mr. G. still spoke of "the facts respecting Mr. Kelf" as if not included in these facts, and of "the words used in [Mr. N's] letter of July 1, 1857," as if they were "*at variance* with what occurred at the meeting of the trustees," on Aug. 30th, 1845. So that what he still maintained was contrary to what has just been proved.

July 27, 1857. Regular CHURCH-MEETING.

THE LETTERS which had passed

between Mr. Gould and Mr. Norton, between July 14th and 25th, were read.

**ACCURACY OF STATEMENT.** The records say, that Mr. Newbegin expressed "his concurrence with Mr. Barber, in his designation of the tone of the correspondence as most *ungentlemanly*, so far as Mr. Norton's share in it extended;" and his conviction that not a word in Mr. Gould's letters was open to censure.—*Ch. Bk.*

The first statement is of little importance as to Mr. Norton, but it is of much as to accuracy, in relation to this suit. On enquiry, Mr. Norton was informed that Mr. Willis and Mr. Spalding after this record was read, told Mr. Barber of it; who found that it completely altered his meaning. Mr. Barber, as Mr. Norton is assured, did not allude to him at all, but to Mr. Gould's correspondence.—*J. B. Feb. 11, 1859.*

Mr. Fletcher thought that to come to an **AGREEMENT AMONGST THEMSELVES**, leaving Mr. Norton out of the question, was worth while.

**OPEN MEMBERSHIP.** Mr. Spalding said that even if the Strict members were to leave at once, the church would not be united; because some would desire to have a *thoroughly open church*, while others would be content with open communion at the Lord's table.—*Ch. Bk.*

**MEASURES TO BE TAKEN WITH THE DISSENTIENT MEMBERS.** Mr. J. D. Smith, a deacon, moved that messengers be sent to those who had been *absent* since March 11, 1857; which was the course usually taken before *exclusion from membership*. Mr. Moll and Mr. Barber said that, on account of "the pastor's request," the Lord's Supper had not been observed by these members *this month* as it had been before. But Mr. Gould said that as they had "set up a rival communion at the Lord's table, and established public worship at the same time as this church [was] accustomed to meet," they "were chargeable with a *schismatical* proceeding....upon which the church could act without delay," *Ch. Bk.* Mr. Barber is said to have replied that they were "*obliged by their consciences* to act as they had done, because they were prevented from communing at St. Mary's. Mr. Gould denied that they were altogether prevented from communing as *Strict Baptists* in St. Mary's; they could accept the service offered by the resolution of March 30. In answer to Mr. Spalding, Mr. Gould is recorded to have said that though they had ceased to observe the Lord's Supper as before, yet if

they did not *attend public worship*, they were, upon the grounds stated in his paper read at last church meeting, liable to proceedings against them.

Are, then, the facts these? that at this very time (see July 13), it was admitted that no arrangement could be made without settling the legal question? that the dissentient members, by the treatment they had received, had been *compelled* for the time being, and till that question was settled, for their own spiritual comfort and for conscience' sake, to meet most frequently elsewhere? (for some did not wholly absent themselves from meetings of the church, as their presence at *this meeting* proved); yet were they not *still* threatened with exclusion for *absence* from worship and the Lord's Supper, if they did not *at once acquiesce* in the establishment of the new practice, and the surrender of a *most important part of their own rights*? Was it a fact that after being *urged* to give up their own Lord's Supper service, and having so far conformed for a time to the pastor's wishes, they were *still told* that they were not *less* liable to exclusion than before, if they continued absent from public worship, and declined the bread and cup, injurious to their welfare as Strict Baptists, offered to them at the special strict service? Was it not still maintained that for *adhering* to the practice of *this church* they were, according to its practice, liable to *exclusion* from it? and liable to exclusion by the very members of it, who had themselves *really violated its practice*, and then construed *unwilling absence* caused thereby, into *wilful absence*, deserving to be visited with such exclusion? And had not these members given reasons also for having violated that practice of the church, which, if sound at all, made the exclusion of these *true Christians*, a sin of terrible magnitude,—the sin of tearing Christ's body limb from limb?

Aug. 3, 1857. Mr. NORTON to Mr. Gould.

**RESULT OF READING EXTRACTS FROM CHURCH BOOKS.** "The information sent with your letter of July 25, confirms all my previous convictions as to breach of trust."

**NO NEED OF ARBITRATION AFTER MR. GOULD'S ADMISSION, MADE JULY 21.** "The deed," said Mr. Norton, "declares that the building was designed for [this] congregation of Particular Baptists, and for no other use," &c.

"Words cannot be clearer. It would be vain to suppose that any attempt to arbitrate upon their meaning could make it clearer, or make them mean the reverse of what they express. You feel their force apparently when, in reply to my request for evidence that Christians of every class and denomination are *included* by words which *exclude* them, you say, that persons who 'wish to act as it becomes Christians, cannot be expected to prove themselves fools.'..... After your admission there is nothing left us to discuss. I pray you, act as it becomes you, and exhort your friends who agree with you to do so too. Do not attempt to put persons who have no right or title to the use of property, into possession of it; knowing also that you thereby *exclude* those who are entitled to it, from their right," &c. "I am sorry that my office as an agent of the law [a trustee], should need to be resorted to, to enforce what I think should have been discharged not merely as a Christian, but as a natural duty. Yours dear sir, with regret and entreaty that you and your friends will spare me any further need of interference, William Norton."

Aug. 10, 1857. Church meeting. Above letter read.

Aug. 31, 1857. CHURCH MEETING. OPEN MEMBERSHIP. A letter read from a DEACON of the church, "resigning his office of deacon and his membership in this church, on the ground that unbaptized believers were admitted 'merely to the Lord's Supper,' and not 'also to full membership with the church,' but requesting permission to commune with the church." The resignation was accepted, and the request agreed to, Sept. 28, 1857.—*Ch. Bk.*

Sept. 1, 1857. CHARITY COMMISSIONERS. A statement of the facts of the case, and an Appendix, were laid before the Charity Commissioners for England and Wales, by Reuben Willis and Richard Spalding, two members of this church, who were afterwards two of the plaintiffs in this suit. They prayed that the matters referred to might be inquired into, and that directions and recommendations might be given. They referred to Mr. Norton and Mr. Gould as able to give further information on behalf of each side respectively, if the Commissioners saw fit to ask for such information.—*Copy of Statement; and Letter of H. M. Vane*, of Sept. 4, 1857.

Oct. 19, 1857. THOMAS HARE, Esq., INSPECTOR OF CHARITIES, pursued an in-

vestigation to-day, Monday, and on the following Friday, into the "charities connected with St. Mary's chapel." At the request of the trustees in or near Norwich, Mr. H. U. Culley continues to hold the deeds, which are now all numbered and described in a schedule. Mr. Hare made a remark on the name of Norton, from which it was supposed, incorrectly, that Mr. Norton the trustee, "had been in communication with him." This was not the case. But Mr. Norton's name appeared in the *Statement* which had been laid before the Commissioners.—*Exhibit, P. 4*, p. 48; *J. C. N.*, Nov. 5, 1857.

Dec. 4, 1857. THE REPLY OF THE CHARITY COMMISSIONERS to the *Statement* laid before them on Sept. 1, long expected and often applied for, was sent to-day; but it merely stated that if the building were registered, and really used, "as a place of meeting for religious worship, it [was] excluded from the operation of 'The Charitable Trusts' Act, 1853, as one of the exemptions to the Act specified in the 62nd section." P. 1.

Dec. 8, 1857. SEC. 64 OF CHARITABLE TRUSTS' ACT. Mr. Ivey was requested to ascertain, whether the question at issue could be brought before the Commissioners under the 64th section of the Charitable Trusts Act, which provides, "That if any question or dispute shall arise among the members of any charity *exempted* from the operation of this Act, in relation to any office," trustee, or officer, "or *generally in relation to the management of the charity*, it shall be lawful for *two-thirds of the members* present at any special meeting, duly convened by notice for the purpose in the same manner in which meetings of such charity are by the rules thereof appointed to be held and convened, to refer such question or dispute to the *arbitration* of the commissioners, who shall accept such reference, and act therein as arbitrators, and their award shall be final, and may be made a rule of her Majesty's High Court of Chancery."—*W. N. to J. I.*, Dec. 8.

Dec. 9, 1857. Mr. Ivey wrote to the Commissioners on the subject.—*J. I. Dec. 9.*

Dec. 17, 1857. No answer yet received from the Commissioners, in answer to Mr. Ivey's letter of Dec. 9. The opinion at Norwich was that the free communion majority would not refer the question to the arbitration of the Commissioners.—*W. N. to J. I.*, Dec. 17.

Dec. 17, 1857. Mr. Norton, as a trus-



tee, went to the office of the Commissioners, and saw two of the chief clerks. They informed him that, in their view, if *two-thirds of the members* should agree to ask the Commissioners to arbitrate, the latter *must*, according to the wording of the Act, do so; also that the *endowments* came under the *proper jurisdiction* of the Commissioners.—*Note Book, and W. N. to J. B., Dec. 17.*

Dec. 22, 1857. PROPOSAL MADE TO THE CHURCH TO SUBMIT THE QUESTION TO THE CHARITY COMMISSIONERS, AS ARBITRATORS, by Mr. Norton to Mr. Gould.

Though Mr. Gould's *admission as to want of evidence*, seemed to leave no ground of defence whatever for the new practice, it was still continued. To test once more the willingness of Mr. Gould and his friends to submit the question to arbitration upon a *broad basis* which would make the *whole case* the subject of decision, Mr. Norton proposed, on Dec. 22, the Charity Commissioners for arbitrators, and the following questions for their consideration:—

*"Whether the system, commonly called Free or Open communion, that is, the free admission to communion of all persons applying for it, who may be regarded as godly, whatever their religious sentiments or denomination, can, according to the trusts on which the chapel and premises are held, be lawfully practised by this church, or by any persons whatever, in this chapel."*

*"And whether the introduction into this church and chapel of a part of the said system, is a breach of the trusts or not."*

He also proposed that it be an "express provision and condition" that Mr. Gould and Mr. Norton, the trustee, and also any others of the members or trustees who might "accompany them, be first fully heard in presence of the said Commissioners and of each other, touching the reasons in favour of and opposed to the lawfulness of introducing the practices of the said system," into that chapel; and it was to be understood that, "on these conditions, the award of the Commissioners on these questions WOULD BE FINAL."

In the letter which accompanied this proposal, Mr. Norton said:—"Dear Sir,—At length all is ready, if no equitable mode of arbitration be assented to, to use the only remedy left. But if you think fit," &c., &c., "I think that the necessity for other measures may be prevented."—*Exhibit, P. 4, pp. 68 to 71.*

Dec. 24, 1857. A FURTHER STATEMENT by Mr. Willis and Mr. Spalding was sub-

mitted to the Commissioners, referring specially to the *endowments*, amounting, they were informed, to "upwards of £2000, yielding interest, part of which interest is entrusted to the deacons of the said Baptist church, to be by them distributed to poor persons connected with that church and place of worship." They said "that the innovations which they [had] referred to at length, in the statement and Appendix which they [had]" already submitted, would "have the effect of entirely excluding them from their share of the said interest in case of their being in need; because their conscience compels them to be members, if it be possible, of *such* an organized body as this was, when" the endowments were made, and these innovations, if continued, would "*compel* them to leave" that body, and would thus exclude them from their share in the endowments. They therefore entreated opinion and advice as to the means by which those innovations might be caused to cease, and their interest in the said endowments secured.—*Copy in Exhibit, P. 1; and R. W. to W. N., Dec. 25.*

Mr. Norton had said, on Dec. 21, as to this second appeal, "Do not think that it will of itself settle the question; but it is desirable as a help, especially as to expenses, if we must, as it is probable, go into Court."—*Exhibit, P. 4, p. 63.*

His allusion was to a provision in the Charitable Trusts' Act. In sec. 16, it says, that "every trustee and other person who shall act upon or in accordance with the opinion or advice given by the said Board shall, in respect of so acting, be deemed and taken, so far as respects his own responsibility, to have acted in accordance with his trust; and no judicial order or direction subsequently made or given by any court or judge... shall... *impair the indemnity* by this act given to trustees and other persons who have acted upon or in accordance with such opinion or advice of the said Board."

Dec. 25, 1857. MR. GOULD asked Mr. NORTON, if he had "ascertained that such question [was] within" the jurisdiction of the Commissioners, "and whether they [would] *themselves*, and not by an inspector, or other deputy, entertain and finally dispose of the same."

Dec. 28, 1857. MR. NORTON replied that "from the information [he had] received, [he had] reason to think that if *two-thirds* or more of the members" requested it, "the office of arbitrators [would] probably be accepted by the

Commissioners *themselves*, not by deputy, and as final adjudicators."

Dec. 28, 1857. CHURCH MEETING. THE PROPOSAL FOR ARBITRATION BY THE CHARITY COMMISSIONERS was submitted. The church-book says that Mr. Barber, a strict member, said that papers on the subject had been for some time past in the Commissioners' hands; that Mr. Fletcher and Mr. Tillyard objected to "the terms proposed, because of their *misrepresentation of the true issue* which had been raised;" also that Mr. Gould stated his objections, and "was requested to act according to his own judgment."—*Minutes* 3 and 7.

THE CHURCH MEMBERSHIP OF UNBAPTIZED PERSONS AGAIN RECOGNIZED. The invitation of unbaptized church members to the missionary communion had recognized their membership. The majority of this church had also long been accustomed to dismiss members to *Independent and other mixed-membership churches*. A letter may, no doubt, be sometimes called one of dismissal, and yet be so worded as neither to recognize, nor be intended to recognize, the society to which it is sent, as being a duly constituted church. But the free communion members of this church recognized such churches as "sister churches."—*Ch. Bk.*, Sept. 1, 1851. And a letter drawn up by the pastor, and adopted on Dec. 28, 1857, was not only addressed "to the church of Christ meeting in the *Independent chapel*, Prince's Street," but expressed *gladness* that the person then dismissed to it could thus recognize the unbaptized as having a right to membership. The letter said that the person dismissed had signed the Declaration presented to this church on June 29, and had therein stated that *none but persons immersed upon faith* "should be received to the Lord's Supper or to full church membership," and in reference to her *now seeking membership* in a church composed chiefly of those who had not been so immersed, the letter said, "We are glad to find that she has learnt 'a more excellent' way."

The question whether this letter proves that the free-communion members must, if they act consistently with their *own principles*, admit unbaptized believers to *full membership*, is left to the decision of the reader.

Jan. 2, 1858. MR. GOULD to MR. NORTON. *Exhibit*, P. 3. ARBITRATION. "I am glad that at last you admit the principle of arbitration in the question between us."

HIS REASONS FOR DECLINING MR. N.'S

PROPOSAL were briefly these. First, as to the arbitrators, he said, "I am advised that the question at issue between us does not lie within their [the Commissioners'] jurisdiction;" that they "have no authority to" arbitrate. Next, as to the QUESTIONS proposed for decision. "Your proposal contains a definition of 'open or free communion' which I could not accept," nor "allow to be substituted for the resolution [that of March 11] upon which you have presumed to charge the church with a violation of the trust deed. The question between us is... *whether that resolution is a violation of the trust deed*. An arbitrator, or a judge, can only be called upon to decide that point." The "*Characteristics* of [the] proposal," he said, were, "arbitrators that cannot (as I am advised) arbitrate, and false issues substituted for the true one." Mr. Gould said that he was ready to listen to proposals for arbitration as to "communion at the Lord's table," and "upon the basis of the resolution of 29th of June last." He adhered absolutely to his own plan, even in the points objected to.

QUESTIONS FOR THE READER. In what were the issues raised by Mr. Norton's "questions" false? Why could not an arbitrator be asked to decide on "the resolution" directing E. Bayes to be received "as a member," as well as on "the resolution" of March 11, 1857, relating solely to communion at the Lord's table? and also on the question whether unbaptized persons may observe the Lord's Supper "in this chapel" at all, as well as whether they may observe it there with *this church*, in its church capacity? for to this last point, the resolution of March 11, 1857, said to be "the question between us," related.

Jan. 8, 1858. MR. NORTON TO MR. GOULD, *Exhibit*, P. 4, p. 73.

"I admit nothing as to 'the principle' of arbitration, which I have not always admitted. You are not correctly advised as to the powers of the Charity Commissioners. The resolution...to which you refer [March 11, 1857] does not...include all the breaches of trust which have been complained of; at all events the question at issue could not be 'fairly' raised upon that resolution only. One person has been received as a member, I believe, unimmersed..."

AS TO ANY ALTERATION OF EXPRESSION AND MODE OF STATEMENT, the writer said, "If your objection to the questions raised in my proposal, were one of expression only, or if you wished

to state the question in any other mode, which would raise all the points at issue, and recognize all that has been already recognized, as to the relation of these practices to the great question of free and strict communion, there might be hope of such an appeal as I have proposed. But it is impossible to admit that it is a matter of fact that the resolution to which you refer, is the *sole* point on which an arbitrator or judge can be called to decide,....and even if this sole point were raised, it would leave other instances of breach of trust still undecided."

Jan. 9, 1858. MR. GOULD to MR. NORTON. *Exhibit, P. 3.*

As to the resolution of March 11, 1857, Mr. Gould said, that "nothing had been previously agreed to by the church," that is, before it was passed. Will the reader compare with this statement the resolution said to have been passed by the church in 1849, when without a pastor (p. 15 preceding, column 1), and that of Jan. 26, 1857, as to E. Bayes (p. 15, column 2). Mr. Gould said he was still *willing* to submit to arbitration the question "in regard to communion *at the Lord's table*;" and added, "In no instance, that I am aware of, has any resolution been adopted, or any act been performed, which is not provided for in the terms of this offer of arbitration."

"Elizabeth Bayes," he said, "communed with the church prior to her baptism, but was not received as a member until after her baptism. 'The constitution of the church remains unaltered.'"

He would meet Mr. Norton either in Norwich or London, "*to set forth the resolutions which the church [had] arrived at upon the question of 'communion at the Lord's table with unbaptized believers.'*" But, unless the resolution that E. Bayes be admitted *as a member*, were set forth also, the objection that Mr. Gould's plan *excluded it* from consideration, would still have remained, even if the fullest consideration could by this setting forth have been secured, of every resolution relating *merely to the Lord's Supper*. Mr. Gould, in his letter of Jan. 2, had contended that the resolution of March 11, 1857, was the *sole point* which an arbitrator could "be called upon to decide."

Jan. 13, 1858. MR. NORTON to MR. GOULD. *Exhibit, M. 2.*

MR. GOULD'S PLAN OF ARBITRATION. What was "not provided for" by it.

The "resolution" to admit E. Bayes AS A MEMBER was not provided for.

Nor the question as to the admission of persons *not proved* to HAVE SAVING FAITH. The missionary communion of *members of all Christian churches*, included Wesleyans. But "their society is declared by its rules to be 'a company of men having the form, and *seeking the power of godliness.*'" Mr. Gould's plan related only to "*unbaptized believers*," and not to the admission of any person who is an *unbeliever* "in the Baptist sense, of one who has [not] saving faith," a person such as, by the very constitution of their society, *some Wesleyans* are implied to be.

Nor did the expression "unbaptized believers," touch the subject of PARTICULAR REDEMPTION, and "*fully* raise the question as to the admission of ARMINIANS, even if they are believers."

The meaning of "UNBAPTIZED," was more *ambiguous* than *unimmersed* would be.

The plan was "defective in ITS PROPOSALS to BIND each side to certain courses." It did not expressly bind "the members of the church to cease from all the practices objected to as breaches of trust;" and if, as Mr. Gould said, on July 14th, it was intended to do so, that meaning could "be *expressed*." On the other hand, the plan, though it included "only a part of the breaches of trust alleged," yet proposed to bind Mr. N. "to abstain from *all* legal proceedings, including those which refer to breaches not included in the question submitted to arbitration."

Mr. N. said that THE PROPOSAL SUBMITTED BY HIMSELF permitted questions as to "each of these alleged breaches of trust to be raised;" and added: "As I said before, I do not stipulate that no other terms shall be used."

He gave choice of TWO OTHER MODES OF STATING THE QUESTIONS, both of them, in effect, raising these three questions:

"Whether the admission of persons who are *not 'Particular Baptists'* to communion *with this church* in the observance of the Lord's supper; and whether the communion of such persons with *some of the members of this church in observing it in this place of worship*;" and also "whether the resolution passed by the church as to Elizabeth Bayes, on Jan. 26th, 1857," were, or involved, breaches of the trust deed.

Jan. 15th, 1858. MR. GOULD to MR. NORTON. *Exhibit, K. 38.*

HIS REPLY TO OBJECTIONS TO HIS PLAN OF ARBITRATION. First, *That the case of E. Bayes [was] not provided for.* Mr. G. said

that she "was not received as a member until after her baptism." He said also, "the discussion at the church-meeting.....no less than our subsequent action towards her, distinctly shews the meaning which, from the first, was attached to the phraseology of the resolution. And I therefore declare that, by its adoption, the 'constitution of the church' was unaltered. It simply admitted Elizabeth Bayes to the Lord's Supper as an unbaptized believer on the ground of her willingness to be baptized as soon as the providence of God allowed." He quoted the resolution of Jan. 26th, 1857, and said that it was "*in consequence* thereof [she] communed with the church prior to her baptism."

That resolution directed her to be admitted "as a member," so that if her actual admission was "*in consequence*," and, as the Church Book (Feb. 23, 1857) states, "*in pursuance*" of that resolution, it must have been *as a member*. Again, how could the words "as a member" possibly mean, *not* as a member, but "simply to the Lord's Supper?" Besides, Mr. Gould himself when he said, in this letter, that she "was *not received as a member* until [July 5] after her baptism," did not mean that she was *not received to the Lord's Supper* till then. He himself used the words *as a member* in the very sense which he denied to them in the resolution.

The "*discussion at church meeting*" too, is said by others to have left an *impression* contrary to that stated; an impression that Mr. Tillyard meant E. Bayes to be received to the *full rights of membership* when unbaptized; and upon the ground that she was "*virtually baptized*," and therefore as much entitled to them as if she had actually been so. Seven trustworthy members, in April, 1857, stated, and signed the statement, that Mr. Tillyard urged his motion on the ground that E. Bayes was "virtually baptized." "An account," &c., p. 2. One of these had made the same statement on Mar. 2, 1857, *Exhibit, K. 25*, and made it again on Mar. 30, 1858, saying, "*certain I am that several of the brethren understood the resolution to mean that she was admitted a member of the church;*" for "*Mr. Tillyard said, in proposing the resolution, that he considered she was virtually baptized.*"

Respecting the reason of the "*subsequent action towards her*," that is, after the resolution was passed, it may be stated that this member said, on Mar. 30th, 1858, "I cannot help thinking

that Mr. Gould's not enrolling her as a member of the church till after her baptism was an after thought." This is made pretty evident by the words of the resolution of Mar. 11th, 1857, "that the constitution of this church remain unaltered," and Mr. Gould's two statements in this letter, she "was not received as a member," and "the constitution of the church" was unaltered;" for the words *as a member* would scarcely have been used on Jan. 26th, 1857, if the impression had been as deep then as on Mar. 11th following, that to receive an unbaptized person *as a member* was an alteration of the constitution of the church. On May 29th, 1857, the above-named member wrote that a free-communion deacon had lately said to him that "none could be accepted *as members* of the church but those who had been baptized," and that "E. Bayes was not a member." Such were the reasons apparently why the words "*as a member*" in the resolution of Jan. 26th, 1857, were said not to *mean as a member*.

As to the objection that, in SPECIFYING THE BOND on Mr. Gould's side, the plan did not expressly mention the members as bound to cease from all the practices objected to, Mr. Gould said: "'The result' of the arbitration was to 'be accepted as a final settlement of *such question*,' and the church 'resolved to abide by' it:" could this "be fairly interpreted as not binding [them] to cease from all that the arbitrators might condemn as breaches of trust?" He spoke of Mr. N.'s "slandorous assertion," and said "your language is either an insult or a calumny." Nothing of the kind was of course intended. The objection was this. The "question" referred to in the above words, was that "of the legal construction of the trust-deed in regard to communion at the Lord's table." This, if it had been left without a rider, would have applied to *all acts of communion at the Lord's table*, though not to a mission "*as a member*." But after stating that "the result [was to] be accepted as final," a rider followed specifying by *special bond* how this acceptance was to be carried out: "the pastor expressly binding himself" as to the resolution of Mar. 11th, 1857, "and Mr. Norton being bound:" words which seemed to *interpret* what was meant by "accepted as final." All parties, therefore, or none, ought to have been here *special*ly bound. The effect of binding some only was to limit or seem to limit the general expressions preceding,

to the particular persons and subjects so mentioned. Nothing was easier than *clearly to express in the plan itself*, as Mr. Norton had requested, the intention avowed by Mr. Gould in his letter of July 14. Instead of conveying slander, insult, or calumny, Mr. Norton had merely asked for *clearness of expression* as to what was said to be *intended* by the *bond*.

To Mr. Norton's "quibble" as to the BOND REQUIRED of him, Mr. Gould said, "you must be well aware that the legal proceedings referred to," (in the words, *all legal proceedings*), "would, in the very nature of things, be understood as those relating to the question submitted to arbitration."

Yet Mr. Gould, in his sermon of June 3rd, 1860, p. 15, says of the trustees, other than Mr. Norton and Mr. Wilkin, that "having agreed beforehand to abide by the opinion, whatever it [might] be," *on the case laid before Messrs. Bethell and Romilly, in 1845*, they "have CONSISTENTLY REFUSED TO JOIN MR. NORTON IN HIS SUBSEQUENT PROCEEDINGS;" and Mr. Wilkin and Mr. Norton are implied to have inconsistently departed from that agreement. Apparently the said bond of 1845, is "understood" by Mr. Gould *himself* to relate, not merely "to the question submitted" then, but to *every other question* which has arisen *since*, out of the actual exclusion of Mr. Kelf, in 1846, of ten others in 1847, and out of the new innovations since the beginning of 1857. Surely Mr. Norton is thus justified in having insisted that *the bond* proposed for his acceptance, in 1857, should be *unequivocal as to its extent*.

RESPECTING THE BREACHES OF TRUST WHICH HAD BEEN ACTUALLY ALLEGED, up to Jan. 15th, 1858, when Mr. Gould wrote, he said: "'All alleged breaches of trust' are, as far as I know, comprehended in those words,"—*communion at the Lord's table, &c.*; "and if they are *not*, I can only remind you that, up to the present moment, they have not been 'alleged' to me." Mr. Norton took care to remove all objection of this kind in his next letter.

Respecting the admission of MEMBERS OF WESLEYAN SOCIETIES, as "members of Christian churches," Mr. Gould, after referring to his "most solemn convictions," said, "I am willing...to vindicate their admission to the Lord's table."

As to the objection that, since proof of SAVING FAITH is not required, *some*

Wesleyans may lack such faith, he said, "I dare not say that 'they are not regenerate believers' at all.' God has not conferred upon me the awful power requisite to search their hearts, and to arrive at such a conclusion." "I shall always be ready to receive any man who professes to be 'a believer in the Lord Jesus' as one who professes to have saving faith. I *may* receive him, because I am commanded so to do, but I must not judge him."

Three startling things were thus implied: first, that in the plan of arbitration, the term "believers" was to include *all professed believers*; secondly, that the missionary communion was justified by Mr. Gould upon the ground that all such persons ought to be admitted to the Lord's Supper; and thirdly, that he denied the lawfulness of *judging* a professed believer, as to whether he has saving faith or not.

For the same reasons he justified the admission of those who do not hold PARTICULAR REDEMPTION, "unless," he said, "it can be proved, which, thank God, it never can be, that Arminian doctrines damn all the souls that receive them as the truth of God."

Those Baptists who make particular redemption a term of communion, do, no doubt, in common with all who hold that doctrine, think that Arminian views indicate defective faith and experience, if they are held firmly. But since Particular Baptists do not *profess* to receive *all* of whose salvation they have a favourable hope, but only such as make profession of faith in what God *has made the object of faith*, and do what God *requires to be done*, their conduct in requiring faith in the doctrine of particular redemption, is a mere *act of obedience*, and not a decision as to what will be the state at the last, of those who do not hold that doctrine.

But how, possibly, can ALL PERSONS WHO PROFESS TO BE BELIEVERS, and ALL THE MEMBERS of all churches called CHRISTIAN, lawfully use for their worship a building put in trust for the *sole* use and worship of a church limiting communion to *Particular Baptists*?

As to ARBITRATORS, Mr. Gould again refused the Charity Commissioners. He would not even "apply to them."

As to the QUESTION for arbitration, one sentence gave a faint hope of willingness to *meet the objections made*. It was this: "I have no objection to agree to any questions which fairly grow out of the resolutions or acts of the church, and

which might be deemed necessary adjuncts to such resolutions or acts, in order to draw the attention of the arbitrator or arbitrators to the issue which is joined by us." The hope proved to be ill-founded. The *issue to be joined* was never altered.

Jan. 16, 1858. Mr. NORTON to Mr. GOULD. *Exhibit, P. 4*: ACTUAL BREACHES OF TRUST: ARBITRATION.

He said that he COULD NOT ADMIT that "the constitution of the church [was] unaltered;" nor that the resolution of Jan. 26, 1857, did not admit E. Bayes "as a member;" for the expression "*as a member*" [did] not mean '*simply as an unbaptized believer*,' but, 'as a MEMBER.' Nor that her actual reception could be "*in consequence*" of that resolution, and yet not be, "*as a member*," according to its own language, "whether she were formally stated to be [a member] at that service, or not."

Respecting BREACHES OF TRUST he alleged that the resolution of Jan. 26, 1857, respecting E. Bayes; also her actual admission unbaptized; also the invitation "given to the members of all Christian churches" and the "*consequent actual communion*" in that chapel, of "the members of one or more Christian bodies which do not hold particular redemption, nor require proof of saving repentance and faith, in order to membership;" were breaches of the trust.

He OBJECTED to Mr. Gould's plan of arbitration, that there was at least room for "question whether it" permitted the case of E. Bayes to be considered, or the reception to the Lord's Supper of "all members" of such bodies as the Church of England and the Wesleyan body; and that cases involving the "admission of an unbaptized person as a member, and cessation of the rule, that *proof of saving faith*....is necessary to communion," were "some of the most decided cases of breach of trust." If all such members were admitted, then some "UNBELIEVERS" would be so. He objected also to the term "*believer*," as being equivocal, and used by Mr. Gould to include "any man who professes to be a believer;" he wished the words "*all legal proceedings*," to be expressly limited to the actual questions referred to arbitration by such an addition as "thereon," and requested Mr. Gould to "propose to the church....at least some statement which [would] meet the above objections." He stipulated nothing as to basis of arbitration, beyond the removal of these.

AS TO THE POWER OF THE CHARITY COMMISSIONERS "to act as arbitrators," he said, "If you were only willing to arbitrate, you might soon find the truth, by putting it to the test."

Jan. 18, 1858. Mr. GOULD promised to lay the above letter "before the church at its next meeting for business."

Jan. 19, 1858. THE CHARITY COMMISSIONERS RESPECTING THE ENDOWMENTS: THEIR SUGGESTION. *Exhibit, M. 3*. Their secretary was directed to state that "exemption from the operation of the Charitable Trusts' Act does not extend to the endowments belonging to or connected with the chapel;" and that the Act "intrusts them with the power of granting their certificate to enable proper parties to apply to the ordinary courts of justice."

"Adverting," he said, "to the opinions which have been given by the Vice-Chancellor Kindersley, and the Master of the Rolls, when at the Bar, and by the present Attorney-General, on the points at issue, I am to suggest to you that it is open to you to bring the matter to the notice of the Attorney-General officially by a memorial praying him to take such proceedings in the Court of Chancery as to him, in the exercise of his discretion, may seem fit."

The above letter did not relate at all to arbitration founded on section 64 of the Act, in cases exempted from its direct operation.

Jan. 23, 1858. A MEMORIAL WAS PRESENTED TO THE ATTORNEY-GENERAL, accompanied with the pamphlet printed by one of the trustees in 1847. It prayed him to take such steps in Chancery as to him might seem fit, and tendered, at his request, "a detailed statement of the more recent events briefly referred to in this memorial." P. 1.

Jan. 30, 1858. SATURDAY. ARBITRATION. Mr. NORTON to Mr. GOULD. *Exhibit, P. 4*. The monthly church-meeting was to be held on Monday Feb. 1.

AS TO THE SUBJECT of arbitration he presumed that his letter of Jan. 16, met Mr. Gould's "wish that the acts and resolutions of the church should be the subject of arbitration," and said that those acts and resolutions were made so in his "last proposal" of Jan. 13th.

AS TO ARBITRATORS, he said, "I am willing to nominate the Solicitor-General, the Master of the Rolls, and Vice-Chancellor Sir R. Kindersley, or if three of them will not, or cannot act, two of them, on the same terms of free statement allowed

to each side; or else with permission to each side to draw their case, each case being submitted to the other side before it is laid before the arbitrators, and each side being at liberty to present, in addition to its own statement of case, a statement of objections to any points deemed objectionable in the statement of the opposite side. Also that if any inaccuracy should appear as to matter of fact in the award of the arbitrators, their award shall not be final, till the case has again been considered by them, after such inaccuracy has been pointed out to them."

This proposal was made hurriedly, that it might arrive in time for the church-meeting, and was intended to prevent the supposition that Mr. Norton would assent to *no arbitrators* but the Charity Commissioners.

The opinion of the Solicitor-General might have been taken, and an amicable case then laid, at small cost, before one of the judges referred to. The provision as to "*inaccuracy*," related to "*ANY inaccuracy*" whether affecting or pointed out by one side or the other.

Feb. 1, 1858. CHURCH MEETING. ARBITRATION: THE FREE COMMUNION MEMBERS TERMINATE THE CORRESPONDENCE.

Letters between the pastor and Mr. N. from Dec. 28, 1857, to Jan. 30, 1858, read; also a statement of *facts* from Dec. 1, 1856, when E. Bayes was proposed for fellowship; and a digest of the whole correspondence. Mr. Gould then made some remarks of like kind with those contained in his letters, and enumerated the breaches of trust alleged by Mr. N. in his letters of Aug. 3, 1857, and Jan. 13 and 16, 1858.

He said of this church of Particular Baptists, that it might invite others to enjoy its accommodation "just as a man may have a house given him in trust for the use of his family, without being entitled to debar their friends from sharing their hospitality." Also that the communion of those who are not members "in no way interferes with the uses of the building." But some of the members were actually deprived of their customary use of it on every *first Sunday* of the month, at the least. And, as to a house put in trust for a *family*: suppose that the husband should banish the wife to a garret, and confer rights belonging to her *exclusively*, on a *friend* in her stead; would this kind of "hospitality," if such the husband should call it, be right, even as to the use of that building?

It was at this meeting that Mr. N.'s reference, on Jan. 16, to "*proof of saving faith*" as *having been* "necessary to communion" in this building, (p. 46, c. 1,) was, according to the records, said to be an "attempt to support a *false charge*, by ascribing to the church a rule which *it has never recognized, and in the nature of things never could have recognized.*"

Mr. Gould is recorded to have said that Mr. N. had "ample means of knowing" that some of the questions which he wished them to submit to arbitration "are at *utter variance* with our resolutions:" also to have said that they contain "misrepresentations of facts."

To the provision suggested by Mr. N., in his letter of Jan. 30th, "if *any inaccuracy* should appear," Mr. Gould is said to have supplied the words, "in his judgment," as conveying the *intended* meaning:—"if *any inaccuracy* should," "in his judgment, of course, 'appear?'" And he is said to have remarked, "thus an opening is left for a *one-sided* judgment after all?" and also: "*The fact* that Mr. N. should *dare to propose such a condition*, puts him, in my opinion, *utterly beyond the circle of honourable men*. We cannot hope to settle terms of arbitration with a man *who thus proves himself insensible to justice, and we must leave him to his own course as the disturber of this church of God.*"—*Ch. Bk.*

Can these church records of what was said, be accurate? And yet if they had not been so, they would surely have been speedily altered by the majority.

A RESOLUTION was then passed, on the motion of Mr. Fletcher and Mr. J. J. Colman, which stated that the resolution of 29th of June, "regarding the admission of unbaptized believers to the *Lord's table*, was communicated to Mr. Norton by letter, dated 30th June, and subsequently referred to and *confirmed* in letters of 2nd and 14th of July, 1857, and 2nd, 9th, and 15th Jan., 1858, respectively. That *this offer* [had] been distinctly refused by Mr. Norton four times, viz., in letters of 1st, 4th, and 18th of July, and 3rd of Aug. 1857;" and that his "proposal to refer certain questions as raised by him, to the Charity Commissioners; and his subsequent proposal of the 30th ult., to refer the subject as provided for by clause 4th of his letter of 16th of January, to the arbitration of the Solicitor-General and other parties (*reserving to himself* the right of objection to the award if, in his judgment, inaccurate in any statement of matter of fact), [were] proposals to which this

church [could] not accede;" that "the correspondence" on arbitration had been "without any satisfactory result," and that it was "desirable that [it] should cease."

MR. REUBEN WILLIS rose to object to this motion, but Mr. Gould refused to permit him.—*Ch. Bk.*; R. W., Feb. 3.

WILLINGNESS TO ARBITRATE ON EQUITABLE TERMS had now been thoroughly PUT TO TEST. The result justified first impressions. It was now evident that one sole plan (the true nature of which was more seen the more it was tested), had all along, and even in Mr. G's letter of Jan. 15th, been insisted on *without alteration*; and that no plan but this, nor any alteration in this which would meet Mr. Norton's objections to it, was deemed by the free communion members "satisfactory." They had also alleged that Mr. Norton's last proposal meant what was not in his words, nor had entered his thoughts; and it was *they who cut off all further communication*. The memorial already presented to the Attorney General, shows that no vain hope had prevented preparation for an appeal to Chancery.

Feb. 2, 1858. JOHN P. FEARON, Esq. requested, on behalf of the Attorney General, "the detailed statement of more recent events," referred to in the memorial. *Exhibit, P. 1.*

Feb. 2, 1858. MR. GOULD forwarded to Mr. Norton a copy of the above resolution, of Feb. 1st.

Feb. 3, 1858. MR. REUBEN WILLIS AND MR. RICHARD SPALDING, after referring to the church meeting of Feb. 1, said: "You see by this that things are now come to a crisis. It appears to us that the case must now be taken into Chancery, or be entirely dropped, and you and we be made the objects of ridicule and scorn, by all the free communionists in the kingdom."

Feb. 17th, 1858. THE DETAILED STATEMENT OF MORE RECENT EVENTS, had required some time for its completion. It was forwarded to THE ATTORNEY GENERAL to day. *Exhibit, P. 1.*

Mar. 1, 1858. CHURCH MEETING: PROPOSED EXCLUSION OF THE DISSENTENTS.

*The correspondence with Mr. Norton being now closed*, the pastor said that "it was his intention...to bring before the church all cases...of absentees from the fellowship of the church in breaking of bread and in prayers, that they might be duly considered and dealt with by

the church," but expressed a desire that they would "reconsider their conduct."

March 2, 1858. THE ATTORNEY GENERAL'S REPLY TO THE MEMORIAL. Mr. Fearon said: "The opinion of the Attorney General is . . . that if an Information were presented, with a responsible Relator, it would be the duty of the Attorney General to sanction it." *Exhibit, M. 4.*

Mar. 29th, 1858. CHURCH MEETING. A LIST OF THE ABSENTEES HAD BEEN PREPARED by the deacons and pastor, but the latter said that he was unwilling to lay it before the church, till a final effort had been made to induce the absentees to abandon their *schismatical course*.—*Ch. Bk.*

THE FINAL EFFORT THEN RESOLVED ON was the appointment of "the afternoon of the second Lord's day in each month, for the celebration of the Lord's Supper, by *baptized believers only*," with the understanding that it would only be continued "to meet their conscientious feelings;" also the sending of a printed circular to the members, informing them that such a service would be held "in accordance with the resolution of 30th March, 1857." For circular, see *Exhibit, P. 3.*

Mr. Brock said in 1845 (*Exhibit, K. 1, p. 2*), "Far from me be the desire to tempt you to compromise your principles; or, failing that, to punish you for holding those principles fast." The acceptance of the above proposal *would* have compromised their principles; it would have compromised their right to *attend all church meetings*; also their duty to *insist* that none but baptized believers be received to communion, and also to *insist* that converts who hold Strict Baptist sentiments be *not forbidden to enter this church*. On March 30, 1857, the following questions are said to have been put, and answers received. Q. Was this to be considered *the church service*? A. It would be a church service. Q. Would the *whole church* be expected to meet on that day? A. It would depend on the *sympathy* felt with the strict members. Q. Would it be at *this service* that the right hand of fellowship would be given to new members? A. No; but at the *mixed communion service* on the first Sunday of the month. (*Willis, March 31, 1857*; also *March 30, 1858*). By letter of April 5, 1858, Mr. Norton was informed that two of the deacons when reminded that no convert who was a Strict Baptist could join the church in future, had replied,



to the effect, that it would be a *good thing that they could not*; so that this was a well known result; and to that result the strict members would have assented, by accepting this service.

April 26, 1858. CHURCH-MEETING. Mr. Gould reported that the strict service was held, but that NONE OF THOSE FOR WHOM IT WAS PROVIDED, ATTENDED. On June 29, 1857, he had said, "*if [the absentees] see that with our convictions of duty to Christ, it is impossible for us to refuse to receive those whom Christ has received,*" &c. *Exhibit, K. 41*, p. 8. It was still difficult for them to see this.

THE NAMES OF ABOUT SIXTY MEMBERS WERE READ, AS THOSE OF ABSENTEES, AND MESSENGERS WERE APPOINTED TO VISIT THEM BEFORE EXCOMMUNICATION. This motion was made by Mr. Fletcher and Mr. Tillyard.

April 27, 1858. Mr. WILLIS to Mr. NORTON. After referring to the appointment of messengers, he said:—"The friends in Norwich are very anxious to know how the case is going on, and...if you are making any progress." They expected to be cut off at the next church meeting.

May 13, 1858. Mr. WILLIS and Mr. SPALDING said that they HAD BEEN VISITED BY THE MESSENGERS.

May 13, 1858. INFORMATION AND BILL FILED. Copies were soon afterwards served on each of the defendants.

May 18, 1858. EFFECTS PRODUCED. Two members, writing to Mr. Norton, said, that from all they could learn, the free-communion members had been taken by surprise, and thrown into perfect confusion; that they seemed to have thought that a suit was not really intended. A strict member, one of these two writers, was himself taken by surprise. He was present at St. Mary's on Sunday morning, the 16th, unaware of what had happened. At the close of the sermon, the subject was said to have been chosen to guard against over much sorrow. Mr. Gould then referred to the fact that St. Mary's was in Chancery. This hearer did not think some of his remarks *inoffensive* to the Strict Baptists, but was glad to find that the threatened *exclusion of about sixty members, all without fault*, was arrested.

May 31, 1858. CHURCH-MEETING. SOME OF THE MEMBERS WHO WERE THREATENED WITH EXCLUSION WERE PRESENT. No motion was made to *exclude them from membership*; but some urged them to leave the meeting. The pastor declined to do even this, lest it should be turned

against him in the suit, and he dissolved the meeting.—*Ch. Bk.*

July, 1858. A DEFENCE COMMITTEE, including the names of "J. J. Colman, John Culley, James King, James Newbegin, [and] J. D. Smith," all members of this church, issued an advertisement, in which they said, "the church, on June 29, 1857, unanimously declared its willingness to refer the *questions in difference* to arbitration. This offer was repeatedly made to Mr. Norton, and declined by him." It has been supposed from this statement that what Mr. Norton declined was *arbitration in itself*, and not merely the *plan of arbitration* proposed to him. Sufficient has been said to show the truth on this point, and also that "*the questions in difference*" were not all included in the plan proposed.

This committee stated that those of the defendants who were trustees, desired "to submit themselves to the judgment of the Court," and that the "chief burden and risk of the suit [would] fall on Mr. Gould," than which "nothing [could] be conceived more unjust." They said that he had not "in any manner encouraged this controversy," and had "done nothing offensive or unkind to the plaintiffs or their party;" that "his conduct had approached as nearly as possible to neutrality." The committee wished "to assist in preventing the mischief which would assuredly ensue in a large number of churches similarly circumstanced with that of St. Mary's, were the plaintiffs in this suit to succeed;" and they were "sustained by the assurance" that if they contended "for principles and for such principles only as lie at the very foundation of a true church; then this suit *must* result in a triumph to religious freedom."—*Baptist Magazine, July 1858.*

If it be "freedom" to subvert "*the very foundation*" of this *Strict Baptist* church, its triumph will not be complete till the unbaptized have *full membership*. In this suit it has been a plea that the constitution of this church is not touched; that it is a *Strict Baptist* church still. Must "*principles*" bow down to chapels? Can a Christian give up God for the sake of a building? The defence committee have still to lament that their "*principles*" are no part of the "*freedom*" permitted in that place, as to *full church-membership*.

Jan. 21—Feb. 3, 1859. THE CHURCH-BOOKS EXAMINED at intervals by authority obtained from the Court.

ANOTHER VAIN ATTEMPT TO EFFECT A MORE AMICABLE MODE OF PROCEDURE WAS MADE ON THE PART OF THE PLAINTIFFS, LONG AFTER THE SUIT WAS BEGUN. That suit was begun with the utmost reluctance, the strongest aversion. The same feeling led to this new attempt. It was made in April and May, 1859. And if position, character, and likeness of sentiment

as to free communion, could possibly have availed, success would doubtless have followed. Assurance was received that the attempt was vain and hopeless. It was great satisfaction, however, to feel that whatever could be done, had been done, first to prevent, and then to remove the necessity for this suit.

### PART III.—THE INFORMATION AND BILL, ANSWERS, AFFIDAVITS, AND DEPOSITIONS OF SOME OF THE PLAINTIFFS' WITNESSES ON CROSS-EXAMINATION AND RE-EXAMINATION.

#### Section I. THE INFORMATION AND BILL. FILED MAY 13, 1858.

By this instrument, viewed as an INFORMATION, Sir Fitzroy Kelly, Knt., the Attorney-General, as INFORMANT, on the relation of persons thence called RELATORS, gave information to Baron Chelmsford, as Lord Chancellor. By it as a BILL OF COMPLAINT, the PLAINTIFFS showed to his Lordship the nature of the complaint by them made against the DEFENDANTS. The Informant and Plaintiffs *prayed the court for relief.*

The RELATORS and PLAINTIFFS, (in this suit the same persons) were:—WILLIAM NORTON, SIMON WILKIN, REUBEN WILLIS and RICHARD SPALDING. The first two were trustees, but not members; the last two, members of the church. Their complaint was made "on behalf of themselves and all other persons interested in the trust premises," except the defendants.

The DEFENDANTS were:—the pastor, GEORGE GOULD, and the rest of the nine trustees: namely, JAMES COZENS, the elder, JAMES COZENS, the younger, HENRY UTTING CULLEY, JOSIAH FLETCHER, ROBERT TILLYARD, JOSEPH HOWSE ALLEN, and JOHN GOODERSON.

In answering the Information and Bill, Mr. Gould, Mr. Allen, and Mr. Gooderson answered separately; but *the five* whose names follow that of Mr. Gould, answered jointly. Mr. Gould put in *three answers*; the five next trustees, *two*; the others, *one* each.

After the first and second answers were

put in, the Information and Bill was amended, but the alterations made little change as to the substance of it. The following is an abstract of it as amended.

ABBREVIATIONS. — Expressions which occur often will be sometimes given in brief; for paragraph, ph.; congregation, cgn.; particular, pr.; general, gl.; Baptist, Bpt.; redemption, redn.; communion, cmn.; confession of faith, cfsn.; Lord's Supper, L's. Spr.; plaintiff, pltf.; defendant, deft. The chief points in each paragraph are here marked by italics.

Ph. 1. *Rècites the trusts of the deed poll of Nov. 24, 1746, which states that "the money advanced and paid for the purchase of" certain buildings and ground "was raised and advanced by the several members of the cgn. of Pr. Bpts. within the said city of Norwich, the said premises being purchased for, and intended as, a place of public worship for the said cgn.," that they "might at all times thereafter be kept and preserved for the use and benefit of the said cgn.," and "be always held, used, and enjoyed, as a place of public worship of Almighty God, for the said cgn. for the time being, ...and to and for no other use, intent, or purpose whatsoever."*

2. This was then the only cgn. of Pr. Bpts. in Norwich, and had "there existed for upwards of half a century."

3. "Baptist" meant one who had been "wholly immersed" upon "satisfactory proof" of repentance and faith. The faith required was "not mere assent to a correct creed, but actual confidence

reposed in Christ:" proof, Arts. 22 and 39 of Cfsn. of 7 London Churches, 1644. "Particular," referred to "particular or limited redemption," which "doctrine then was that '*Christ by his death did purchase salvation for the elect that God gave unto him.*'" proof, Art. 21, of above cfsn. The term was opposed to general redemption, or "the doctrine that Christ purchased salvation for all men." "*Congregation*, denoted an organized body or church of believers,....not a promiscuous assembly of divine worshippers."

4. "*The cgn. of Pr. Bpts. within the city of Norwich*," meant this cgn., "governed by its own rules, holding its own tenets, and following its own practice;" and also "composed wholly of Bpts.... holding the doctrine of pr. redn., who had been admitted...as members thereof, and whose names were" recorded in the church books.

5. From earliest times to 1746, and till a period to be mentioned, *immersion* upon proof of repentance and faith had been *prerequisite* "to the rights of full church-membership."

6. The church books contain "the names of all the members....so from time to time admitted."

7. This church "has also received to *occasional communion* therewith in the ....L's. Spr., Pr. Bpts. who [were] *not.... full members*;" but, till the said period, "no persons have been allowed to celebrate" it, "or to take part in any business pertaining to the church, without having been first *immersed....as aforesaid*."

8. "*The entire independence of each church*" of "strictly congregational polity, of which this...is one," and its "distinct right to *separate rules of faith, government, and action*, have....been expressly recognized" by baptized and other churches.

9. This cgn. "has *always been wholly independent* of all other ...cgn., even of *like faith and practice*." Other cgns. of Pr. Bpts. have been formed in Norwich, but "have *never claimed* to take any part in the worship or business of this...cgn., or to participate in the benefits of the said trust."

10. Till the said period, this cgn. "has both in faith and practice, constantly maintained and adhered to what is generally termed....'*Strict Communion*,' that is, has restricted communion" in "all acts performed by it in its *church capacity*, of which the L's. Spr. is a principal one, to persons (being in full or occasional communion with the said cgn.) immersed, and...[being] Pr. Baptists," and "has

done so on the ground that such a course is *enjoined by Christ and is a permanent and inviolable duty*."

11. The books of this...cgn. commence in point of date some time before 1691.

12. "In the earliest" are "articles... entitled '*The several Articles of our Faith in which with one accord we agree*.'"

Art. 9. "By [it] a '*visible church*' is defined to be '*a cgn. [or] company of faithful people, baptized believers....who voluntarily agree to walk together in obedience to Christ their head and lawgiver in all the laws and ordinances of his house. ....And that Christ being the great prophet that we are to have in all things, and only to observe all things whatsoever he doth command, keeping the ordinances as they are delivered unto us, we may not alter anything, but [must] do all according to the pattern*.'"

Art. 10. "By [it] the members...profess and declare as follows:—'*We believe [that] unto this church is committed the power of putting in operation all church censures, admonitions, withdrawing communion*,' &c....We believe that Christ has instituted several *ordinances and laws delivered to the church*, as that ordinance of the L's. Spr., by which we show forth his death till he come; the building up one another,' &c."

Art. 8. "By [it] it is declared that '*nothing is left to man's prudence in the matters of religion*;' to which greater prominence was afterwards given by being re-inserted at length in the church books."

13. "Such articles, so far as they extend," were those of "this cgn. in, and previously to,....1746, and no other articles have been ever substituted for them, although the same have been violated in practice as hereinafter mentioned."

14. "*Other entries* in the said church books show that none but *Pr. Bpts....were ...admitted...as members*...On May 30, 1714, this church agreed 'that if any of the old members of the baptized church at Pulham do offer themselves to have communion with us the church of Christ at Norwich, they shall be admitted only on condition...that they agree with us in *doctrine, worship, and discipline*.'"

15. "*The usage and practice of this...cgn.*" in, before, and after 1746, till the time of the innovations, "have been constant and uniform in allowing no persons to communicate in the *L's. Spr. at the said chapel*, but such as were *Pr.*

Bpts.," and had been received to "full or occasional communion with the said...cgn."

"The said church books show that when members have fallen away from the doctrine or discipline aforesaid, as by pleading for or countenancing infant baptism, or general redemption, or receiving the L's. Spr. with the unbaptized...the members of this church...have...with-drawn communion from them."

16. "The admission of individuals not being baptized persons, to full membership or to fellowship with it in...the L's. Spr., within the said chapel...necessarily involves the exclusion of those who adhere to Strict Baptist fellowship, and for whom alone the said chapel was exclusively intended."

17. "In or about the year 1845, the Rev. W. Brock, then being the minister of the said...cgn., without the authority thereof, instituted a second monthly service in the said chapel, at which he administered the L's. Spr. to persons not duly baptized as aforesaid." This was "on the third Sunday in the month, the service on the first...being still reserved for baptized persons only."

18. "In 1849 the defendant George Gould was appointed minister," &c.

19. "No other material innovation...until...January 1857, when permission was purported to be given to Elizabeth Bayes to be received at the L's. Spr. on the first Sunday in the month as a member,...on the ground of her willingness to be thereafter baptized."

"And on the first Sunday in April, 1857, persons who were not Pr. Bpts. nor even Bpts. at all, were actually admitted" to the L's. Spr.; when "the cgn. was assembled in its...church capacity."

20. The several innovations....were from the first protested against."

"Their effect has been from time to time to exclude from church communion...and from the benefits of the said trusts, various members of the said...cgu. of Pr. Bpts...meeting at the said chapel...for which cgn., as regulated and established at the time, the same was so exclusively...put in trust;...and...the inevitable tendency and result of them is or must be to destroy the said...cgn. as so established."

21. "The innovations and practices last aforesaid, are in direct violation of the trusts of the said deed of 1746, and tend to the manifest injury of the said members;...two of whom are the plts. R. Willis and R. Spalding, who have thereby been shut out from communion

therein, and deprived of the benefit of the said trusts."

22. Communications, to effect an amicable settlement, "have been made and carried on throughout the whole period from the commencement of such innovations," but "have ultimately proved wholly unsuccessful."

23. "The present trustees...are the plts. W. Norton and S. Wilkin, and the defts. other than the said G. Gould."

24. "At an alleged church meeting...on April 26, 1858, the deft. G. Gould reported the names of those members who, on account of the innovations...had been forced to absent themselves from the communion," &c., and "the deft. J. Fletcher...moved for the appointment of a deputation to visit" them and report. The deft. R. Tillyard seconded the resolution, and together with defts. G. Gould, and J. Cozens, the elder, "threaten and intend, unless restrained by this Honourable Court, to proceed to expel and exclude from the said...cgn. all those who still hold to strict comm., and adhere to the principles and practice of the authors or founders of the said trust or chapel, and for whom the benefits of the said trust were intended."

25. "The several defendants (except the defendant John Gooderson)...have either introduced, or actively promoted, or sanctioned, or else have refused to put a stop to, the innovations." "They perseveringly refuse," notwithstanding "repeated applications, ...to carry into execution the trusts of the said deed."

26. J. Gooderson declines to join as a pltf.

27. "The said trust is a charitable trust coming under the protection of the Crown," and is within the exemptions of the Charitable Trusts' Act, 1853."

28. "The defts. have in their possession, custody, or power, divers deeds, documents," &c., "which they ought to produce, but refuse so to do."

PRAYER. 1. That the Court will declare that "none but such as have been" immersed after proof of repentance and faith, and "who profess the doctrine of limited or pr. redn., are entitled to the benefits of the said trust," or "can be considered as full members or occasional communicants of the said...cgn., or are entitled to take part in the ordinances, business, or affairs thereof."

2. "That the trusts of the said deed...may be carried into execution," &c.

3. "That the deft. George Gould may be restrained...from admitting to...any act of church communion, and particu-

larly from administering the L's. Spr. to any [but] Pr. Bpts."

4. "That the said defts. may be restrained....from allowing the said chapel and premises to be used or enjoyed by any persons not being...Pr. Bpts.; and also from taking" any step "tending to the expulsion or exclusion from the said...cgn., or the benefits of the said trust, of any Particular Baptists for holding to strict communion," or "for temporarily absenting themselves," &c. "by reason of the innovations;" and also from permitting the chapel to be used "otherwise than for purposes consistent with the said trust."

5. "That the deft. George Gould may be removed from being the minister," and "all proper directions given for facilitating and ensuring the election" of some "duly qualified person."

6. That the other defendants (with the exception of J. Gooderson) "may be removed from being trustees," and "other persons duly qualified may be appointed to be trustees."

7. That "all proper inquiries may be made and directions given."

8. "That the Informant and Pltfs. may have such further or other relief, as the nature of the case may require."

SECTION II.—FIRST ANSWER OF DEFT. G. GOULD TO THE INFORMATION AND BILL, AS FAR AS PHS. 96 AND 99. SWORN AND FILED NOV. 17, 1858.

The length of this and of Mr. Gould's third answer increased greatly the cost of the suit. Phs. 1 to 96 are not in *direct* reply to the bill. The following abstract states briefly the principal contents of these paragraphs, and quotes sometimes the words used. The *references* are by the editor. Those to *phs. merely*, are to other phs. in *this* answer. The names of *Norton, Crisp, &c.*, refer to *affidavits* made by them. The name of *Crisp* denotes an affidavit made by him and thirteen other leading free-communion Baptists, though, for brevity, he only is here named. The numerals I, II, refer to Mr. Norton's first and second affidavits; 1, 2, 3, &c., to paragraphs.

Ph. 1. THE BAPTISTS; their views of baptism.—*Ref.* Bill, ph. 3; Norton I. 11 to 14.

2 to 9.—*Persons holding Baptist views* in England, and particularly in Norwich and Norfolk, from 1174 to 1567.

10.—A.D. 1567. *Nonconformist separation in worship* from the Established Church, said to have commenced; but "separate societies" of Baptists not to

have been formed till shortly before A.D. 1600.

11. PARTICULAR BAPTISTS: the name "derived from the doctrine called *particular or limited redemption*, held by the Calvinists, to the effect that our Lord Jesus Christ, by his *perfect obedience and sacrifice of himself, purchased salvation* for all those whom God hath given unto him, that is, *for the elect*."—*Ref.* In Mr. Gould's Ans. III., phs. 2 to 8, the terms *particular and limited*, which are here applied to one and the same doctrine, are applied to different doctrines; and the term *redemption*, instead of being used of Christ's *sacrifice*, as here, is defined to be "*actual deliverance...by the application of Divine mercy, through the atonement...made for the sins of the whole world*."—Ans. III., phs. 6, 7. Compare Crisp, phs. 2, 21, 22.

12. A.D. 1600. "A few separate congregations of Baptists in England." Their early records lost.

13. A.D. 1622. "SAMUEL HOW, a Pr. Bpt., was minister of a congregation of Nonconformists...not wholly composed of Baptists."—*Ref. Crosby in Hist. v. I. pp. 162—164*, says, "It was not an *Anabaptist*, but an *Independent cgn.*"

14. A.D. 1633. Mr. SPILSBURY'S CHURCH:—"The first cgn. of Pr. Bpts. in London was formed...by Mr. Spilbury."—*Ref.*, phs. 20 and 23, end. Norton II., 2. Crisp, 11.

15. A.D. "1646. There were IN LONDON ABOVE FORTY-SIX CGNS. OF PR. BPTS."—*Ref.* Like words in ph. 64. Denied by W. Norton, II. 1.

16. But some *Pr. Bpts.* were still "members of cgn. *practising infant baptism*." John Canne mentioned.—*Ref.* ph. 17: Norton II. 3; Crisp, &c., 3.

17. "NAME OF CONGREGATIONALISTS: under [it] were frequently included cgn. of Pr. Bpts., together with the cgn. of Nonconformists practising infant baptism;" as alike holding that "each cgn. is independent of all external control." *Ref. Congregationalist*; not so much the name of Baptist churches, as of *their government*; Bill, ph. 8; Norton I. 8, 9; II. 3.

18. "JOHN TOMBES...a Pr. Bpt.,...in communion with the Church of England, and with cgn. practising infant baptism...in the middle of cent. 17." Also an account of him.—*Ref.* phs. 27, 61: Norton I. 33; II. 3, 7.

19. "*Qualification for civil office*, [by] receiving the L's. Spr. in the Established Church: the Pr. Bpts. always condemned" it.—*Ref. Ch. Bk.*, March 1, 1786.

20. MR. SPILSBERY'S CGN. "from the time of their formation were in the practice of *open membership*." "Soon after 1633, a controversy arose," as to open membership. *Ref.*, pgs. 23, 26, 36, 56. Denied by W. Norton, II. 2.

21. "OPEN-MEMBERSHIP [is] now frequently used by Pr. Bpts., and [is] used in this answer," for "admitting persons who are not Baptists, but who make a personal profession of faith...to be members of cgn. of Pr. Bpts." *Ref.* Crisp, 4. Such a cgn. *denied* to be one of Pr. Bpts., Norton, I. 32—33.

22. OPEN-MEMBERSHIP CGNS. "have always called themselves, and been recognized as Pr. Bpts., and in [them] baptism has been administered always by immersion only, and to those persons only who actually profess faith...The Pr. Bpts. adopting open membership have generally considered the practice of [it] or of open cmn. to be a matter of order or regulation, OPEN TO MODIFICATION from time to time, and NOT A MATTER OF CHRISTIAN DOCTRINE." *Ref.* Crisp, 5. The three statements *denied*, Norton, aft. I. 33. II. 3, 4.

23. "OPEN-MEMBERSHIP WAS ADOPTED BY [the following] cgn. of Pr. Bpts."—*Ref.* Norton I. 32, 33; II. 3.

MR. SPILSBERY'S from A.D. 1633.—*Ref.* ph. 14; Crisp 11: *denied*, Norton II. 2.

MR. HY. JESSEY'S, "from the time of their formation about the year 1635."—*Ref.* His was the *first Independent church*; and was formed in 1616, not in 1635; Norton II. 3; was extinct before 1746; Norton I. 34.

MR. J. BUNYAN'S, AT BEDFORD.—*Ref.* was called in 1672, not *Baptist*, but *Congregational*, Norton II. 3.

BROADMEAD, BRISTOL. *Ref.*: called in 1654 *Independent*; Norton II. 3; was strict before 1746, Norton I. 34.

AT HITCHIN, HEXHAM, TOTTLEBANK, OLNEY, and GAMLINGAY.—*Ref.* None of these sent messengers to the assemblies of messengers of Pr. Bpt. chs. in 1689 and 1692.—*Ivimey's Hist.* I. 503—511.

IN WALES THOSE "FORMED BY MR. VAVASOR POWELL."—*Ref.* These were at first composed wholly of Pædobaptists, and were denied by Joshua Thomas in 1790 to be properly called Baptist churches. Norton II. 3; I. 34.

MR. SPILSBERY "was well known as .....an advocate of...open membership." *Ref.* Denied, Norton II. 2.

"MR. SPILSBERY was referred to ... in a treatise in defence of the lawfulness of baptizing infants, published in

1645, as differing from some of his own way, who so held that baptism constitutes or is the form of the church."—*Ref.* He did not advocate mixed membership, Norton II. 2.\*

24. "A.D. 1646. A treatise entitled OF BAPTISM, was published in defence of the Pr. Bpts." At p. 402, it says, that "a church state could be without baptism."—*Ref.* Note\* on ph. 23; views of Mr. Spilsbery.

25. "A controversy arose among the Pr. Bpts.," about the same time, as to the lawfulness of "*partaking of the L's Spr.* with persons who were not Pr. Bpts."—*Ref.*, ph. 28. Norton II. 5.

Also as to "*permitting persons to preach among them who had not been*" immersed.—*Ref.* ph. 34.

26. MR. KIFFIN'S CHURCH. No record "of any separate cgn. of Pr. Bpts. denying the lawfulness" of the acts mentioned in ph. 25, till, "in 1653, Mr. Wm. Kiffin and other members" of Mr. Spilsbery's cgn. withdrew, and founded one "for the purpose of permitting only persons" immersed "to preach among them, or partake with them of the L's Spr."—

\* The editor knows of no ground for the assertion that Mr. Spilsbery advocated mixed membership, in the sense of admitting believers *who objected to be immersed, to the rights of membership*. What gave rise to the remark above quoted seems to have been this: that he held that persons *intending* to be immersed as believers, might enter into a church covenant, and, in respect of this *preliminary* step, constitute a church *before* they were actually immersed, and were united in visible church order; but he held that an intention to be immersed was essential even to this step, and that *actual immersion* must follow immediately. In "A Treatise concerning the Lawful Subject of Baptism, 2nd ed. 1652," p. 67, he said, that "the truth in the doctrine of baptism" is "one branch of the covenant," and "to be received as an *essential* truth....for the constituting of the church, and *no church*, according to the order of Christ's New Testament, either *without it* or *before it*;" but that "the church is *before* the outward administration of baptism, though *not in her visible order*," also that this outward administration "*ever follows* the saints' mutual faith and agreement in the doctrine;" and that "a church is only so a church *before*" the administration of baptism, as that her union is "an *immediate proceeding to the practice* of the same truth she agreed upon by a free and mutual consent in her conjunction; whereof baptism is one [part]; for a people," he said, "*must first agree upon truth in judgment, before they practise the same*." No comment is needed to show the difference between this and open-membership.

*Ref.* Not the *first strict church*. Communion not cause of secession. Church formed before 1644; Norton II. 2, 5.

27. MR. J. TOMBES, in his *Examen*, edn. of 1645, p. 31, writes:—"You say [that Pr. Bpts.] take their proselytes wholly off from...all acts of Christian communion, [except with] those that are of their own opinion," &c. "You confess some are otherwise minded," &c. "About this what they hold, you may have now the best satisfaction from the confession of faith in the name of seven churches of them, Art. 33, and others following."—*Ref.* ph. 18, 61. Norton II. 7.

28. Question 1 of ph. 25 is that of *open cmn.* as defined in ph. 29.

29. OPEN COMMUNION, "now generally used by Pr. Bpts. and used in this Ans. [for] admitting persons who are not Baptists, but who make a personal profession of faith...to partake of the L's. Spr. in communion with cgn. of Pr. Bpts."—*Ref.* "Open cmn." is used in this Ans. for *open membership* also. See phs. 39, 42, 43, 48; does not relate merely to cmn. with cgn. of Pr. Bpts. Norton I. 31, 33.

30. OPEN COMMUNION CGNS. "have always called themselves, and been recognized as Pr. Bpts.;" and "have generally considered it to be a practice depending on the lawfulness of religious communion with believers..... whether baptized or unbaptized, and to be a matter of Christian order open to modification according to the circumstances of any individual, and not a matter of Christian faith."—*Ref.* Crisp, 7. Open cmn. chs. in and before 1746, practised open membership also. Norton I. 33. Such chs. not "always" called Pr. Bpts., Norton II. 3. The practice not deemed open to modification, II. 4.

31. DISTINCT: "The practice of open cmn. [in L's. Spr.] is, and has always been, considered....entirely distinct from [that] of open membership."—*Ref.* phs. 32; 118; Crisp 8. Denied to have been distinct. Norton I. 33; II. 4.

32. ALL OPEN MEMBERSHIP CGNS, including Mr. Spilsbery's, have "always practised open cmn." in L's. Spr.—*Ref.* Crisp 8. Therefore "always distinct" in ph. 31, is not correct: Norton I. 33.

33. STRICT COMMUNION, "synonymous with the rejection of the practice of open cmn." in the L's. Spr.—*Ref.* ph. 122. This definition not correct; strict cmn. is the rejection of "*open membership*" also; phs. 36, 42, 43, 44, 48, 49. Norton, I. 35, 37. The term "*Strict Baptists*," not in use in 1746, ph. 43; Norton, I. 35.

34. PREACHING, PRAYER AND PRAISE, "The Pr. Bpts. have *always* held" these to be "Divine ordinances of the *same nature* as baptism, and the L's. Spr.,... and it was in accordance with these opinions that the controversy mentioned in ph. 25 was raised,...respecting the lawfulness of open communion [and] of hearing the preaching of the Gospel, by persons who were not Baptists," which last question "was ultimately *set at rest* in 1639, when...the assembly of Pr. Bpts. *decided*...in favour of the open side of the question, using the word open [as in] open communion... *From the time* of this decision hitherto the practice of every cgn. of Pr. Bpts. has been in accordance therewith." *Ref.* ph. 122, Crisp 9, 19. The said ordinances were not of precisely the *same nature*, Norton I. 18, 19; the assembly had "no power to impose anything." Norton, I. 8; Ivey's Hist.: I. 489.

35. AN OPEN QUESTION: "The question between the practice of open...and [that] of Strict Cm. has been hitherto an open one, expressly recognized as such among Pr. Bpts.; has been debated...and discussed...and has produced frequent fluctuations in practice among the congregations of Pr. Bpts."—*Ref.* Crisp, 10. Strict Baptists have *never* recognised the question of *practice as open*, but have always held that it is *fixed* for all time by God himself *inviolably*. Norton, I. 21, 38; II. 6. Open Cm. Bpts. also have declared their practice to be made *binding* by God. Norton, I. 33; II. 6; and this pamphlet, pp. 16, 17.

36. MR. SPILSBERY'S cgn. turned from open membership to strict cmn.—*Ref.* phs. 20, 23, 56; Crisp, 11. No change: Norton II. 2.

MR. KIFFIN'S CGN., now meeting in Devonshire-square, London, "the first cgn...which practised strict cmn.,...now practises open membership."—*Ref.* Crisp, 11. Was at first "one in communion" with Mr. Spilsbery's: Norton, II. 5. The change recent, and like that at Norwich, see p. 26 of this pamphlet: "Mr. Hinton."

37. "IN NORTH AMERICA, the Pr. Bpts. are exceedingly numerous;" many Pr. Bpt. works of 17 cent. have been sent there. From the titles of works not "now accessible in this country...it appears that *many of them were in support of the practice of open cmn.*"

38. MR. HY. JESSEY was a Pr. Bpt. and advocate "of open cmn."...In 1635, he became minister of a cgn. of *Nonconformists*; and afterwards a Baptist. "Of

the members of this cgn., a cgn. was formed by him...of Pr. Bpts., in the practice of open membership." Crosby quoted as saying, "He maintained the same Christian love and charity to all saints as before...in respect of church communion."—*Ref.* Advocated *open membership*; no new church formed; nor any recorded change in the old one, which was founded by Mr. Jacob in 1616: Norton I. 33., II. 3.

39. Mr. HY. JESSEY PUBLISHED, in 1647, "A question about the warrantableness of enjoying comn. together by believers that differ about baptism." Also in 1649, "Another letter, with questions about such comn." Also an exposition of Rom. xiv. 1, afterwards printed in 1673, in Bunyan's "Water Baptism;" all in favour of "open communion."—*Ref.* In favour of *open membership*: Norton I. 33.

40. DANIEL KING in 1650 "a Pr. Bpt. minister of a cgn. of Pr. Bpts. at Coventry," in his 'Way in Zion,' said, at p. 144, "the saints should break bread," &c.—*Ref. Ivimey's Hist.* II. 577.

41. ANTHONY PALMER, "a Pr. Bpt. minister of a cgn. of Pr. Bpts. at Bourton-on-the-Water," published in 1654, a "Scripture Rail to the Lord's Table." Quotations made from pages 16, 46, and 74, none of which speak expressly of communion with unbaptized persons.—*Ref.* After 1660 he was ejected from the *Rectory* of Bourton: "Palmer's Memorial," I. p. 532. He seems to have been *rector* from 1649. Mr. Ivimey, in *Hist.* II. 164, 165, says that *after* his ejection he was "pastor of the Baptist church." Was he a Baptist at all in 1654?

42. Mr. JOHN BUNYAN, A.D. 1672—1674. The controversy "respecting open communion," was continued by him, and by "Messrs. PAUL, KIFFIN, and D'ANVERS," in favour of strict comn.—*Ref.* ph. 23. Bunyan wrote in favour of *open membership*: Norton I. 33; II. 3.

43. THE CONTROVERSY "THEN SUBSIDED...till 1770."

"JOHN RYLAND and DANIEL TURNER, Pr. Bpts., about 1770 [advocated] open comn."—*Ref.*, *open membership* also: Norton I. 32, 33.

"ROBT. ROBINSON, a Pr. Bpt. minister of a cgn. of Pr. Bpts. at Cambridge, published in 1771, 'Principles of Toleration,' in favour of free communion.—*Ref.* a later life a Sociarian; church mixed; advocated *open membership*: Norton I. 32, 33.

ABRAHAM BOOTH, an advocate of strict comn., wrote about the same time.

"STRICT BAPTISTS," the term *first* used.—*Ref.* Norton I. 35.

44. ROBT. HALL AND JOSEPH KING-HORN. After the above dates, "the controversy was...again closed...until about 1815," when "R. HALL...and J. KING-HORN, .. then minister of the cgn. of Pr. Bpts...in Norwich...in question," defended "open and strict. comn." respectively.—*Ref.* R. Hall, not a Pr. Bpt. Advocated *open membership*: Norton I. 32, 33, 38.

45. "THE CONTROVERSY...THEN AGAIN SUSPENDED, and has not hitherto been revived."

46. THE ARGUMENTS IN THIS CONTROVERSY have been "uniformly addressed to all cgns. of Pr. Bpts. practising open or strict comn."—*Ref.* Crisp 12. A mixed cgn. not one of Pr. Bpts.; the arguments relate to *all believers*: Norton I. 31, 32; II. 3.

47, 48. ASSOCIATIONS OF CGNS.: from 1653 hitherto, cgns. "whether practising open or strict comn. have always been accustomed to unite together in assns. as Pr. Bpts."—*Ref.* Crisp, 13, 14. Not always; Cooper cross-exd. Cases rare, up to 1746; Gould's afft. I. 1 to 31; Norton I. 34, 37; II. 3. But each cgn. *absolutely independent*, phs. 17, 121; Bill 9; Norton I. 8.

49. PR. BPT. SOCIETIES for missions, &c., include Pr. Bpts., both open and strict.—*Ref.* Crisp 15, 20; cgns. independent, Norton I. 8.

50. ASSEMBLIES OF MESSENGERS. Open comn. cgns. said to have sent messengers to them.—*Ref.* Crisp 16. No proof was given that they did so to the assemblies of 1677, 1689, and 1692. Sir H. Cairns, when asked for instances by the Judge, adduced Broadmead, Bristol, as to 1689 and 1692, but could not prove that even that *one* church was then open. Ivimey says that these churches in 1692 made baptism "essential to church fellowship." Vol. I., p. 523.

51. A.D. 1677. "THE CONFESSION OF ASSEMBLY," so called in this Aus., was originally adopted at such an assembly in 1677; and from shortly after that time "hitherto, has always been and is still considered by the Pr. Bpts., as a body, to be a just exposition of their faith and order."—*Ref.* Crisp 17. Not a *full* exposition of it; especially as to points of difference as to comn.: Norton I. 8, especially the end.

52. THE CONFESSION OF SEVEN LONDON CGNS. was "adopted at an assembly held in 1664."—*Ref.* Not so, but by the cgns. themselves; see its Preface. Cfns.,



Hanserd Knollys' Society, Exbt. VI. p. 16.

53. THE ABOVE LONDON CFSN. of 1644: words quoted from end of Preface, "And because it may be conceived," to "seven churches in London;" including the statement that they were "all one in communion." Two of the fifteen who signed it were SPILSBERY and Kiffin.—*Ref.* They signed as members of two distinct churches. Exbt. VI.\* p. 17.

54. LONDON CFSN. Edn. II., 1646. Words from Preface, "And lest this should be thought;" up to "same judgment," including the words, "we are one in faith, fellowship, and comm." \*Of the sixteen who signed it, were Spilsbery and Kiffin. *Ref. Exbt. VI.* p. 23.

55. LONDON CFSN. EDS. III. AND IV., 1651 and 1652, signed "by appointment" of the churches, by fourteen persons, of whom were Spilsbery and Kiffin. The 3rd edn. was called "the 3rd impression corrected."

56. MR. SPILSBERY'S CGN. was one of the above seven, and practised at said time from 1644 to 1652, "open membership and open comm."—*Ref.* phs. 14, 20, 23, 53, 54, 55, 60. Denied, Norton II. 2.

57. LONDON CFSN. : "considerable alterations" made in 2nd and 3rd edns.; none in 4th.—*Ref.* Ans. III. 18 to 20.

58. LONDON CFSN. Articles in ed. I. 53; II. 52; III. 51.

59. LONDON CFSN., ARTICLE 33 quoted, including words "the church which Christ hath purchased and redeemed... as it is visible to us, is a company of visible saints...being baptized," &c. This article, said to have been retained in each edition "without material variation."

60. LONDON CFSN. Art. 39. Baptism.

61. LONDON CFSN. Ed. I.: J. TOMBES, as before mentioned, referred to 33rd and following articles, "as evidence that the Pr. Bpts., as a body, did not reject open membership or open comm."—*Ref.* ph. 27. Not as evidence of this: Norton II. 7.

62. LONDON CFSN. Addition made to Art. 39, ed. I., in eds. II., III., IV.:—after the words "to be baptized," of the words, "and after to partake of the Lord's Supper."

63. LONDON CFSN. "CONSIDERABLE DOCTRINAL VARIATIONS" are indicated by alterations made in ed. II. In Art. 17, for "reconcile his elect *only*," there is in ed. II. "salvation of his elect;"

upon which alteration, Robert Baillie, in his "Anabaptism the True Fountain," &c., p. 93, said, "As if Christ by his sacrifice had reconciled to God all mankind as well as the elect."—*Ref.* The said ed. did not countenance universal reconciliation: Norton II. 8.

In ed. II. are alterations also in articles 19, 21, 28, 31, 49, 50.—*Ref.* Of no importance. See Ed. II. *Exhibit VI.* pp. 34—47.

EDS. III. AND IV. DIFFER FROM ED. II. chiefly as to parts relating to "maintenance of ministers and as to the supreme magistracy of the kingdom."

64. LONDON CFSN. of seven cgnos.; "not binding upon any other" of the "FORTY-SIX cgnos. of Pr. Bpts. in London in 1646." The rest "did not generally own" it. Robert Baillie in his said treatise, p. 48, said, that "most of the members, whether of these seven or of their other thirty-nine cgnos., are exceeding far from making these articles the rule of their belief;" and at p. 23 quotes the belief of Marshal, who replied to Tombes, that thousands of the Anabaptists would be "far from owning," the cfsn.—*Ref.* ph. 15. Baillie, who was a Paedobaptist, of Glasgow, was ill informed, but did not suppose that the forty-six cgnos. were in London, but "within and about" it. Dr. Featley, to whom he referred, mentioned forty-seven as the *whole* of the cgnos. then existing in the kingdom. There were only seven or eight in London. Norton II. 1.

65. THE SOMERSET CFSN., published 1656, "of the Faith of Several Chs." in Somerset and adjacent counties, contains no reference to open membership, or to open or strict comm.—*Ref.* Gould's *afft.* 1. 7—10. Strict communion is implied in articles 24—26. *Exhibit VI.* pp. 89—92.

66. THE CONFESSION, INCLUDING AN APPENDIX, ADOPTED in 1677, was so adopted by an assembly of messengers "of many of the cgnos. of Pr. Bpts. in London and the country."—*Ref.* ph. 51. Crisp, 17, 18.

67. CFSN. of 1677, ENTITLED, "a cfsn. .. put forth by the elders and brethren of many cgnos. of Christians baptized," &c. PREFACE, half of it quoted: from words "To the judicious and impartial reader," as far as, "sentiments are different from ours." TITLES OF CHAPTERS given. Also chap. xxii. sections 5, 6, on worship; xxi. 1, "a lawful oath is a part of religious worship;" xxvi. 1 to 15, inclusive, "Of the church;" xxvii. 1, 2, "Of the communion of saints:" xxviii.

• Exbt. VI. is the volume of Confessions published by the Hanserd Knollys Society in 1854.

1, 2, "Of baptism and the L's. Spr.;" **xxix.** 1, 2, 3, 4, "Of baptism;" **xxx.** 1 to 8, inclusive, "Of the L's. Spr."—*Ref.* pbs. 51, 66; Crisp 17; Norton I. 8.

THE APPENDIX. Two pages quoted from first words, "Whosoever reads," to "in this matter also." *Exbt.* VI. pp. 231—233. The authors say that they had in the cfsn. tried to show their agreement with other Christians "in the *fundamental articles* of Christianity;" they said also, as to *preachers not of themselves*, "we, as we have opportunity, participate of [their] labours;" also that they had not "a doubting conscience," but were "fully persuaded that what [they did was] agreeable to the will of God."

QUOTATION of about two pages from the end of the APPENDIX, from "these things we have mentioned," to the end, "best of our understanding," in which the authors said:—

"We are not insensible that as to the order of God's house, and entire comm. therein, there are some things wherein we (as well as others) are not at a full accord among ourselves: as, for instance, the known principle and state of the consciences of divers of us, that have agreed in this cfsn., is such, that we cannot hold church communion with any other than baptized believers and churches constituted of such; yet some others of us have a greater liberty and freedom in our spirits that way, and therefore we have purposely omitted the mention of things of that nature, that we might concur in giving this evidence of our agreement, both among ourselves, and with other good Christians, in those important articles of the Christian religion, mainly insisted on by us." *Exbt.* VI. pp. 244—246.—*Ref.* This passage proves that those Pr. Bpts. who then acted on the very principle on which the church at Norwich has acted till now, deemed those principles *inviolable*, and would have been *excluded from communion by the admission to it of persons unbaptized*. Norton I. 38.

68. ASSEMBLY OF 1677: RECORDS NOT EXTANT. No doubt messengers present from all or some of the seven churches which put forth London Confession; which was referred to in *Preface* of that of 1677. Mr. Kiffin and "most of the London pastors signed" the circular-letter proposing the assembly.

69, 70. THE CFSN. OF 1677 was based on two other cfsns.: that of the Westminster Assembly of Divines, of 1643, and that which the Independents found-

ed upon it in 1658; called the Westminster, and the Savoy Cfsns.

71. CFSN. OF 1677 omits words of Westminster CFSN., chap. 28, stating that baptism is "for admission.... into the visible ch."

72. MESSENGERS OF ASSEMBLY OF 1677. Some of them, no doubt, from *open membership and open comm. cgsns.*—*Ref.* Crisp 18. Not proved; pbs. 50, 68.

DIFFERED AMONG THEMSELVES ON CMN., as appears from their Appendix; see ph. 67. Their words might mean the reverse. To *we* and *us*, they oppose "others—other good Christians;" they compare (not that *assembly* merely,) but all Pr. Bpts., considered individually, with other Christians. So that the words "divers of us, that have," &c. might mean "divers of us [Pr. Bpts., those] that have agreed in this cfsn.... cannot hold ch. cmn. with any other than baptized believers," &c. But if *individuals in the assembly* could *personally* commune with the unbaptized, this was not decisive proof that the *churches* of which they were then members received the unbaptized to cmn. with them. Dr. Wall in his "Hist. of Infant Bap., 1707," p. 560, said, "The Antipædobaptists do not admit to the L's. Spr. *when it is administered by themselves*, any but what are baptized in their way." Norton I. 37, towards end.

The question of cmn. "EXPRESSLY LEFT UNDETERMINED."—*Ref.* The assembly had no power to determine anything for the chs. Norton I. 8.

73. CFSN. OF 1677 has *never been superseded*.—*Ref.* It is of no ch. authority, unless a church adopted it by *its own act*; no record that this ch. ever did so.

74, 75. The "ORTHODOX CREED" of 1678, was agreed to in the name of many cgsns. of Pr. Bpts.—*Ref.* An error. This was a *General Baptist Cfsn.* *Exbt.* VI. Introduction, p. xii.: Taylor's Hist. I. 225, 361.

75. THE SOMERSET CFSN. OF 1656 and ORTHODOX CREED of 1678: accepted only by the cgsns. for which they were adopted respectively; and no record how long accepted by these.

76. The "ORTHODOX CREED" says that "orderly none ought to be admitted into the visible church of Christ, without being first baptized," nor to the L's. Spr. Articles 28 and 33.

77. THE LONDON, SOMERSET, ORTHODOX, and all local cfsns. were "*superseded* by" the cfsn. of 1677, when adopted by the assembly of 1689.—*Ref.* They were *not* superseded thereby; nor deprived of

value; were testimonies, which, instead of opposing, confirmed each other. The cfsn. of 1677, 1689, spoke of continued adherence to London cfsn. Norton II. 9.

78. CFSN. OF 1677 reprinted in 1688.

79. ASSEMBLY OF 1689 of messengers from more than 100 Pr. Bpt. cgsns. HY. AUSTINE, pastor, and THOMAS FLATMAN, minister, were present from this Norwich cgn.

80. SECOND PRELIMINARY RULE of said assembly, quoted, "Wherein one ch. differs from another ch. in their principles or practices, in point of cmn., that we cannot, shall not impose upon any particular church therein, but leave every church to their own liberty, to walk together as they have received from the Lord."—*Ref.* Points of difference as to cmn., included laying on of hands after baptism, singing, and Jewish sabbath. Norton I. 8.

UNBAPTIZED PREACHERS, Presbyterians and Independents; the assembly thought it lawful to hear them when Pr. Bpt. preachers could not be heard.—*Ref.* phs. 25, 26, 34, and 67, the Appendix.

81. ASSEMBLY OF 1689 adopted Cfsn. and Appendix of 1677.—*Ref.* Mr. G. OFFOR in his edn. of Bunyan's Works, II. 593, col. 1, top, says, "In 1689.... this appendix was omitted from the Bpt. Cfsn. of Faith."

82. THE ASSEMBLED MESSENGERS in 1689, drew up a declaration owning said Cfsn. as "containing the doctrine of [their] faith and practice," and recommending it to the members of their churches.—*Ref.* This act was theirs only, not that of their chs. Norton I. 8.

83. A SIMILAR ASSEMBLY in 1692, held in London. H. AUSTINE present, as "REPRESENTATIVE or messenger" of this ch. at Norwich.—*Ref.* The messengers were *not representatives*, in sense of acting *instead of* the churches; they had no ch. power. Norton I. 8.

SINGING. "H. AUSTINE was one of seven ARBITRATORS, appointed thereat to DETERMINE A QUESTION ... whether the PRAISES of God should be sung in the public assemblies. The question....was ultimately decided in favour of the practice of such singing."—*Ref.* They were *not appointed to decide this question*; had *no power* to do so; their decision did *not refer* to it. Those who had written on the subject, had cast reflections one on another, and agreed "*in order to the removing*" of them, to do what the seven should determine. It was stipulated that "the matters to be....determined [were] only respecting *reflections*, and

matters of *fact*," "Ivimey's Hist." I. p. 520. The decision was that they ought to desist from such "reflections and reproaches," and that the books containing them be called in, &c., p. 522.

84. A SIMILAR ASSEMBLY in 1693 also "approved" of the Cfsn. adopted in 1689.—*Ref.* A "CATECHISM" it directed to be drawn up, which was afterwards called "The Baptist Catechism," and was declared to be "agreeable to the Cfsn. of Faith." Norton I. 11. In it, Ans. 103, "the proper subjects" of the L's. Spr. were said to be "they who have been baptized."

85. MANY EDITIONS of Cfsn. of 1689.

86, 87. CHANGES IN CGNS, (called by Mr. Gould "Cgns. of Pr. Bpts.") founded before A.D. 1800. Whole number of cgsns. of that age, about 346. Statistics of 208; 97 remain as at first; 111 have changed, as to cmn.; 86 once, 16 twice, 8 thrice, and 1 four times. At *first* STRICT, 158; *now* so, 72; at *first* OPEN in L's. Spr., 31; *now* so, 105; at *first* OPEN in full membership, 19; *now* so, 31. The whole at *first* open, 50; *now* open, 136.

88. THIS CGN. AT NORWICH "was formed.. as I believe, in or before 1669, and certainly several years before 1689."—*Ref.* The church-covenant, inserted between the articles and first list of members, in the first church book, begins thus:—"The covenant and agreement that *we do join together in*. First, *we do here....covenant and agree*," &c. Mr. Gould, ph. 91, and in his sermon of June 3, 1860, p. 12, speaks of the "loss of the first Ch. Bk. of this cgn." meaning one of an earlier date than this; but the above record is evidence that the first Ch. Bk. *existing*, is the first of *all*. It does not give the date of the formation which it thus records, but shows that it probably was not long before 1689.

89. THE ARTICLES "BOUND UP" in the first existing ch. bk. The 8th quoted, including the words "nothing is left to man's prudence in the matters of religion." The 9th quoted; it defines "the visible ch." to be "a company of faithful people, baptized believers....who voluntarily agree to walk together...in all the laws and ordinances of [Christ's] house;" and has the words—"We may not alter any thing," &c. The 10th quoted. It defines baptism; says that the L's. Spr. is one of "several ordinances and laws delivered to the church;" and that "the power of putting in execution all church censures," &c., is "committed unto this church,"

&c. "These articles...do not contain any express reference to the practice whether of open membership, or of open cmn., or strict cmu."—*Ref.* The watermark and order of entries show that the Articles are not merely "bound up," but part of the original volume. The statement as to no "express reference" is not correct; nor that of sermon of June 3, 1860, p. 13: "for aught that appears to the contrary, this cgn. may have received into its membership, more than a century ago unbaptized believers." The above articles *limited* membership to "baptized believers," which is *strict membership*; and they declared the L's. Spr. to be an "ordinance delivered to the church" thus constituted, which excluded from the L's. Spr. all but *members of churches of baptized believers*; and this is *strict communion in the Lord's Spr.* The articles precede the dates of 1691 and other following years, yet in the said sermon Mr. G. says, p. 13, "a very strong probability exists that they were not drawn up before the year 1713."

90. "THE ENTRY NEXT FOLLOWING these articles," in said Ch. Bk., "is 'The number of the names of the baptized ch.,' &c., 'joined together, walking in the fellowship and order of the gospel.'"—*Ref.* Not correct. *The church covenant* comes between the articles and the names, and the members whose NAMES stand at the head of the list were evidently those who spoke as "we" in the articles and covenant.

91. *Date of first minute* in said book "worn away;" that of the 2nd is Oct. 1, 1693.—*Ref.* Over the names of members on the *second* page of the list above mentioned, (to which list names of new members were added as they were admitted) is the date of "1691."

"THE RECORDS...BETWEEN 1669 and 1689 are irrecoverably lost."—*Ref.* ph. 88. No proof given that they ever existed.

92. "THE SAID ARTICLES...were...RE-  
NOUNCED," except the 8th, on Feb. 12, 1775, by a resolution that the 8th art. "be separated from the rest, and inserted at length, as a testimony of the church's renouncing all sorts of creeds, confessions, articles of faith, &c., &c., except what is or are contained in the scripture," &c.—*Ref.* The date of the trust deed is 1746. Its provisions are not affected by what took place afterwards. The 8th article declared the inspiration and the sufficiency of scripture. Its reinsertion in 1775

showed that the church adhered to the same sentiment on this point still. And even if it were intended to express objection to any *formal statement* of faith except in the words of scripture, this is not proof that the church ceased to hold the *sentiments* expressed in its original articles.

93. ORIGINAL TRUST-DEED OF NOV. 24, 1746, recited.

94. DEED OF OCT. 9, 1773, renewing the trusts with the same provisions, recited.

95. DEED OF MAY 1, 1799, renewing the trust, recited. It differs in part from the two preceding deeds. But the two surviving trustees of that of 1773, declared themselves in this "desirous that the public worship of Almighty God as it was then performed,...might still be, and for ever continue to be, performed therein;" and the new trustees were to permit the building "to be set apart, and appropriated, used, and enjoyed as and for a meeting-house or place for Divine worship as theretofore the same had been, by and for the Protestant Dissenters called Baptists, then living or residing in or near to the city of Norwich."

96. DEED OF Oct. 13, 1832, recited, being the latest renewal of the trust. Its provisions the same as those of the deed of 1799.

99. DEEDS OF 1799 and 1832, contain "NO REFERENCE" to those of 1746, and 1773.—*Ref.* the two surviving trustees of the deed of 1773, conveyed the property in 1799.

THE TRUSTEES appointed in 1799 and 1832 were not chosen by a meeting of the minister and men members of the cgn.—*Ref.* A member still living, says that he was present when the names of the trustees appointed in 1832 were read to the members. J. B., April 27, 1860.

THE DEEDS OF 1799 and 1832 declared to be in breach of those of 1746 and 1773. The persons appointed in 1832 "Ought to be declared" by the Court, "not to be regularly constituted or entitled to act as trustees."

SUBMITTED whether the chapel "is not now vested," by the deed of 1799, in "George Watson and William Durrant, or their heirs," instead of the persons appointed in 1832.—*Ref.* By the deed of 1799, the surviving trustees of that of 1773 did "sell and release" the premises to the said Watson, Durrant, and their heirs, "to hold the same unto" them, "to the use of" the new trustees, of whom the said Watson and Durrant were two.

For the rest of 171 phs. see next Sec.

### SECTION III. ANSWERS OF DEFENDANTS TO THE PARAGRAPHS OF THE BILL.

EXPLANATIONS. — The paragraphs of Bill stand first, thus :—"Bill I., II., &c. G., denotes Gould; F., the five trustees who answer jointly; A., Allen; Gn., Gooderson. The numbers following the letters G. and F. denote the paragraphs in the answers. The paragraphs in the answers of A. and Gn. all correspond, as to the numbering, to those of the Bill. The words "admit," "ignorant," &c., mean that depts. admit, or are ignorant of, &c., the truth of the statements made in the part of the Bill so referred to.

BILL I. Deed of 1746. G. 97, F. 1, A. and Gn., all ADMIT.

BILL II. G. 98, F. 2, and A. ADMIT that this cgn. had existed for more than 50 years before 1746; but IGNORANT whether it was then the only one in Norwich. F. and A. believe it had existed since 1669. Gn. never heard that there was *then* more than this one; ignorant how long it had existed.

BILL III. G. 101, 102; F. 3.—G. F. A. and Gn. ADMIT substantially the definition of *Baptist*; also that of *faith*, as actual confidence. Also that the term "Particular" referred to "*particular or limited redemption*," and that this doctrine *then* was that "Christ by his death did purchase salvation for the elect that God gave unto him;" that it was opposed to "the doctrine that [he] purchased salvation for all men;" and was held together with that of final perseverance. (Compare G. ph. 11; and G. Ans. III. 2 to 8). They also admit that *congregation* denoted in 1746 an organized body or church, not a promiscuous assembly.

But G., F., and A., SAY that there were cgn. practising open membership, or open cmn. at the L's Spr., which were called *cgn. of Pr. Bpts.*

BILL IV. G. 103 to 110; F. 4.—G., F., A., and Gn., all ADMIT that the words in the Deed—"cgn. of Pr. Bpts.," referred to this church. Gn. admits that the church was composed *wholly* of baptized believers, publicly received and enrolled as members in the church books. But G. 110, F. and A., IGNORANT as to these last points.

G. says, in ph. 104, I have examined ch. bks.; 105, till within 28 years they "were irregularly kept, and contain no records of the *meetings* and *proceedings*" of the church "during several long

periods of years." 106, "Originally the *female members*...did not vote upon business," and "did so for the first time in 1790, upon the question" of electing Mr. Kinghorn as minister, and decided the election in his favour; but the ch. bks. contain no "minute authorizing the same, nor of the time when such female members were admitted so to vote... upon all questions"—*Ref.* The ch. bks. record that the invitation of Feb. 22, 1778, of Mr. David to become pastor, was signed by 15 men and 7 women; also that at a *church-meeting* held Dec. 13, 1789, "it was *agreed* that in the choice of a minister the women members...had on this occasion a right to vote."

In ph. 107, Mr. G. says, that *this cgn.* has "*always recognized*" cgn. practising open cmn. in membership or the L's Spr., as "Pr. Bpt. cgn. and particularly has admitted" Baptists to membership "upon *letters of dismissal*" from such cgn., and sent letters dismissing members to them.—(*Ref.* Not proved. In 1836, Mr. Brock introduced a practice of this kind. Norton Afft. I. 22.)

In ph. 108, Mr. G. admits that the ch. books "contain no record" as to open cmn. in membership or L's Spr. till 1833, and alleges that there is none as to STRICT cmn. till then.

In ph. 109, he says, Mr. KINGHORN, pastor from 1790 to 1832, appears to have had doubts as to open cmn. about 1790; about 1818 opposed Mr. Hall; the church for some time before 1818, and certainly afterwards, till his death, "practised strict cmn.," but "*probably the majority* of the members were in favour of open cmn.;" "the question was frequently agitated by such members," and they refrained from bringing it to an issue "only out of regard" to Mr. Kinghorn, "particularly after his said public controversy."—*Ref.* Several witnesses deposed on oath that there probably was such a majority. See Afft. of Cozens, ph. 12; Fletcher and Tillyard, 9; Colman, 4; Brightwell, 4. It is also alleged by Cozens, phs. 17, 18, and by Fletcher and Tillyard, 11, 12, that they believe the free cmn. members did "not modify their opinions," but that they "abstained from agitation" of the subject, in Mr. Kinghorn's time, "*in deference*" to him. If this was true, then what was the Christianity worth which could habitually abstain from doing what God was believed to have made *binding* (March 11, 1857), out of deference to man? If this was true, why, when Mr. Kinghorn

was dead, did not this majority at once introduce open communion? Why, instead of doing so did it insist that Mr. Brock should not moot the question? This fact, and the fact that the church continued strict till a large number of new members had been added by a pastor himself favourable to free communion, is evidence wholly opposed to the probability so solemnly declared. Mr.

EDMUND HASTINGS, one of those who were members of the church at the time, was cross-examined by defts. to bring out something in their favour. He said as to the number of members who then advocated free-communion, "I believe they were very few." Personally, he knew only two, Mr. Cozens and Mr. Theobald; the former of whom on one occasion, when "*Mr. Kinghorn was absent*," proposed that a person who had been baptized but was not a member of that or a like church, "should be admitted to the L's. Spr. without being admitted to the church;" but "he was refused communion." Two other members have given evidence as to the same fact. (*Moore and others Afft. 5.*) The editor of this pamphlet heard of it at the time when it happened. The evidence, therefore, as to that period is conclusive against the probability alleged. The majority, and to all appearance, a large majority was strict, and adhered as firmly to the rule that the L's. Spr. is a privilege peculiar to church membership, as to the rule that baptism is prerequisite to both. It has been peculiarly painful in this suit to have to meet various statements, resting on no better foundation, and made upon solemn oath, for such an end.

BILL V. G. 111, F. 5.—G. F. ADMIT that from 1746 the reception of persons to membership in this cgn. has been "*by resolution*;" G. F. A. GN., that persons baptized after such resolution, have been "admitted to the rights of membership at the monthly celebration of the L's. Spr.;" G. Gn. add, "and not at other times;" G. F. A. Gn. say they were so by gift of the right hand of fellowship by the minister on behalf of the cgn.

BILL VI. G. 112, F. 6.—GN. believes that the ch. bks. contain the names of all the members; G. says that they contain a "list purporting to be a list of members;" but he is ignorant whether "of all," except during his own pastorate; F. believe that they contain the names "of many;" A. believes, "of some."

BILL VII. G. 113—119; F. 7—13.

GN. ADMITS that, till the time of the innovations "*none but members*" of this cgn. were admitted to the L's. Spr., except that, when "members of any other cgn. of like faith and order happened to be present," they were "for that special occasion, admitted," but their names were always publicly announced, and their admission was by general acquiescence of the regular and permanent members then assembled.

G. F. and A. IGNORANT whether this church practised open cmn. in membership or in L's. Spr. or strict cmn., till shortly before 1793 (G. 113: F. 7), but believe that from that time till time of innovations it practised strict cmn. (G. 114, F. 8).

VARIATIONS IN PRACTICE, they say, before said time, would probably "not be recorded in ch. bks." they were "kept so very irregularly," (G. 113, F. 7).—*Ref.* Actual records are sufficient to disprove any such variations. Norton *Afft. I.* 17, 22.

RESPECT FOR MR. KINGHORN is alleged by F. 8, as reason why the question was not brought to issue in his time.

AN OPEN QUESTION.—F. 7. and A. say that "the question of open and strict cmn. has always "been considered such by Particular Baptists."—*Ref.* G. 35. Disproved, Norton, *Afft. II.* 6; I. 21, 33.

BAPTIZED PERSONS, being MEMBERS of some cgn. practising OPEN MEMBERSHIP or one of "Independents or Presbyterians," (F. add "or Episcopalians") :—this cgn. is said by G. 115, F. 9, and A. to have been "*in the practice of admitting [them] to the L's. Sp.*" during Mr. Kinghorn's time.—*Ref.* No instance given. For contrary evidence see *Afft.* of Moore and others, and Hastings' Cross-exmn.

The "PRIVATE DISCRETION" of the minister, "subject to the general authority of the cgn.,"—G. 116, F. 10, and A. say that the minister acted "entirely" upon this, in admitting baptized persons to the L's. Spr.;" but that he generally, though "not always publicly," announced their names.

TRANSIENT MEMBERSHIP. G. 117, 118, and F. 11, 12, deny that occasional communion in the Lord's Supper has ever been deemed by any cgn. of Pr. Bpts. to be membership "for that special occasion" A. does not know.—*Ref.* The words in the Bill which occasioned this denial, were afterwards altered, to avoid controversy, but the expression "transient member," meaning apparently, one admitted to transient communion, occurs

several times in the ch. bks. See Minute of April 10, 1774, and the word "transient" opposite to some of the names of members. In the list of May 6th, 1779, it stands opposite to name 42 of the men, and names 22 and 36 of the women; the last is called "transient member from Ellingham ch.;" also opposite to name 41 of the women, in list beginning at p. 18 of Bk. II.

The questions of CMN. and MEMBERSHIP, are alleged by G. 113 (as before at 31) and by F. 12, to have "ALWAYS been treated by Pr. Bpts. as DISTINCT."—*Ref.* Crisp *Aft.* 8. Disproved, Norton, II. 4.

BUSINESS MEETINGS of the CGN. G. 119, F. 13, A. and GN. all admit that none but *members* of this cgn. have taken part in them.

BILL VIII. G. 120, F. 14, and A. ADMIT that this cgn. is one of *congregational polity*, and that all such churches have maintained the ENTIRE INDEPENDENCE OF EACH CHURCH in all matters pertaining to it, spiritual and temporal.

BILL IX. G. 121, F. 15. A., and GN., all ADMIT that this cgn. "has always been WHOLLY INDEPENDENT OF ALL OTHER CGNS. [even] of like faith and practice."

Also that the other cgn. of Pr. Bpts. formed in Norwich since 1746, have *never* as cgn., "claimed to take any part in the *worship or business* of [this] cgn., or to participate in the benefits of the *said trust*."

G. says that the INDEPENDENCE of this cgn. has been "*in pursuance* of the cfsn. of assembly, since its adoption."—*Ref.* The cfsn. was adopted by the assembly; and this cgn. could not have been independent, if it had depended for independence itself, upon *an act of that assembly*. Norton, *Aft.* I. 8.

BILL X. G. 122, 123; F. 16, 17.—STRICT COMMUNION. GN. ADMITS that this church, "in faith and practice, always maintained and adhered to" it, till time of innovations; G. F. A., save as before appearing, do not know.—*Ref.* Norton I. 39; Moore and others; Hastings Cross-exd.

GN. ADMITS that this cgn. "restricted all CHURCH ACTS and in particular the L's Spr., to baptized persons, being regular or occasional members of" it, and did so on the "ground that such a course is enjoined by Christ and is a *permanent and inviolable duty*." A. does not know.

G. F. SAY that the terms "STRICT CMN., have always, at least since" assembly of 1689, "been considered by Pr.

Bpts. to *relate exclusively to*" the *Ls. Spr.*, and to the restriction of it "to persons who are members of the cgn." or "Pr. Bpts."—*Ref.* Crisp 19. Denied: "*strict*" first commonly used about 1772, Norton I. 35. Open cmn. in and before 1746, related to full membership as well as to L's Spr. Norton, I. 33.

CHURCH ACTS: G. F. say that "*public worship*," that is, "*prayer, praise, and the preaching of the gospel*," are, "according to the doctrine of Pr. Baptists.. entitled to be called church acts in EVERY SENSE in which the cmn. of the L's Spr. is so." G. says that this cgn. did not restrict "*cmn. in and with the ch., as respects all church acts to baptized persons*" even in Mr. Kinghorn's time; that then Independents and Presbyterians "did preach the gospel to, and conduct the public worship of the cgn."—*Ref.* To avoid possible misconstruction of what was meant by "church acts," these words were, in the *Amended Bill*, altered to "acts performed by it in its church capacity." But *prayer and praise* are not church acts except *when* they are acts of the church. Praise, when it is the act of a family, or of a promiscuous assembly is not a church act. *Preaching the gospel* is an act of an *individual* merely. Strictly speaking, those to whom the gospel or news of salvation is to be preached, are the *world*, not the *church*. An address to a promiscuous assembly, is not even *addressed* to the church. Is not such an oath of the most serious import, viewed as an appeal to God?

BILL XI. G. 124; F. 18.—DATE at which chapel books commence.—F. A. GN. do not know. G. knows no more than he has before stated.

BILL XII. G. 125, 126. F. 19.—EXTRACTS FROM CHURCH ARTICLES.—G. F. A. ADMIT the extracts to be correct. GN. does not know.

BILL XIII. G. 127, F. 20, 21.—F. A. GN. *do not know* whether said articles, were HELD BY THIS CH. in 1746, nor whether any others have ever been substituted for them; but GN. *believes* that they were then and are still the articles held by it.

G., and F. 21, believe that no assent to these or "any *written articles*" was ever made "the condition of membership" with this cgn.—*Ref.* Each person on admission *examined* as to his faith. Moore and others, 2; Hastings cross-exd.

G. F. say that this cgn. by Austin and Flatman "*adopted the confession*" of the assembly of 1689. G. therefore denies

that the above-named articles were held by this cgn. in 1746.—*Ref.* G. 77. This ch. did not *adopt* that cfsn. Norton I. 8 ; II. 9.

G. F. say, that all but the 8th of the aforesaid articles were cancelled in 1775.—*Ref.* G. 92. This statement seems to contradict the preceding one, that is, that they were not the articles of the ch. in 1746; for if they had been cancelled since 1689, they could not have been cancelled again in 1775. As to resolution of 1775, see remarks on ph. 92, p. 60, of this pamphlet.

BILL XIV. G. 128, 129, F. 22.—G. F. A. admit resolution of 1714 as to members of church at Pulham. GN. ignorant.

G. F. DENY that entries in bks. of this cgn. "show that NONE BUT PR. BPTS." were admitted to "cmn. and fellowship as members thereof."—*Ref.* Cozens Aft. 5, 9 ; Fletcher, 5, 7 ; Brightwell 3. Proof in Norton I. 17, 26, 27.

BILL XV. G. 130—137, F. 23, 24.—GN. ADMITS that till time of innovations this cgn. had UNIFORMLY allowed none to *commune in the L's Spr.* but *Particular Baptists* who were *members* of it, or were in *occasional cmn.* with it. G. F. A., save as before appearing, do not know.—*Ref.* Norton I. 17, 22, 27, 39. Moore and others ; Hastings cross-exd.

As to the EXCLUSION OF MEMBERS by this cgn. ; G. 131, 134, and F. 24, ADMIT that members have been excluded when they have fallen away into *immorality*, or "*in matters of doctrine unconnected with*" cmn., or have partaken of the L's. Spr. in the Church of England to qualify "for a place under the Crown:" but G. 136 denies that they have been excluded "for *countenancing infant baptism*;" or "for any act affecting the question" of cmn. Yet he ADMITS (132) the exclusion of THOMAS LAMKIN, on Mar. 4, 1715-16, "*for disorderly walking, PARTICULARLY his pleading for infants baptism ; and likewise*" for absence and "excessive drinking." Also (133) that of SARAH TAYLOR, because she (in the words of the ch. bk.), "went from us to Mr. Barron;" a minister holding "general redemption," she having "*joined herself with us, disowning that principle.*" Also (134) the exclusion of JONATHAN TURNER, in or about 1786, for "receiving the L's. Spr." in the Church of England, to qualify for place, one reason given for the exclusion being, that to "return back" to that church is "altogether inconsistent with dissenting principles."—*Ref.* Strict cmn., when practised by a

"cgn. of Pr. Bpts.," involves the limitation of cmn. to those holding pr. redemption. Open cmn. on the contrary *requires the reception* of those holding *general redemption*: see p. 45, column 2, of this pamphlet. So that the case of S. Taylor *does* affect the question of cmn.? Mr. G., it will be observed, after quoting the declaration that T. Lamkin *was* excluded "*particularly*, for pleading for infants' baptism" (132), said (136) "it does not appear by the ch. bks....that any person has ever been excluded....for countenancing infant baptism." Proofs in support of Bill, Norton I. 10, 17, 26.

BILL XVI. G. 138, F. 25.—GN. ADMITS that the reception of persons "*not baptized*, to fellowship in a church observance....within the said chapel" does, "in a moral sense, NECESSARILY INVOLVE THE EXCLUSION of those for whom the said chapel was exclusively intended." *Ref.* Persons necessarily excluded are in the AMENDED BILL, stated to be "those who adhere to strict Bpt. fellowship," and they are there said to be so excluded by the admission of the unbaptized to "full membership or to fellowship with this cgn....in the L's. Spr."

G. and F. DENY that the admission of the unbaptized at all involves the exclusion of said persons. A. submits the point to the Court.—*Ref.* Proof in support of Bill, Norton I. 38, &c.

BILL XVII. G. 139—143 ; F. 26—30. THE SERVICE COMMENCED BY MR. BROCK in 1845: G. 139, 142, F. 26, 29, A., GN., all ADMIT that it was then instituted. GN. says, "I believe without the due authority of the said church." A. ignorant whether without it or not.—*Ref.* p. 8 of this pamphlet.

G. 140, and F. 27, say that on May 26, 1845, "it was determined that" the protest, and the answer to it by Mr. Brock, "be entered in the ch. bks....as a *final settlement* of the matter."—*Ref.*: p. 9 of this pamphlet. How could those who, in their PROTEST insisted that the practice tended "to alienate the building and endowments from" those whose "exclusive rights" they were, intend, by proposing that their protest be *entered on the minutes*, that *nothing afterwards* should be done to prevent such a result? How could the 20 members have deemed this "a *final settlement*," who in Aug. following appealed to the trustees to interfere? See p. 10, column 1 of this pamphlet. Some, indeed, though not all of the strict members, said that they would not bring the subject again BEFORE THE CHURCH. Mr. Brewer, who pre-



pared the Protest, was one who did so. He felt that it would be useless. Writing May 27, 1845, the day after the ch-meeting, to Mr. Norton, the trustee, he said that Mr. Brock, after reading Rom. xiv., had stated the object of the meeting to be "to ascertain whether those who disapproved of the second cmm. service, would forbear in love, what they could not but think an error of judgment; and that they were asked *neither to consent nor assent*, but to forbear—to *avoid disputation*:" that after reading the Protest and Answer, Mr. Brock "solicited the opinions of all on the subject generally;" that "very many spoke in perfectly good temper, and brought out from Mr. Brock, but chiefly from his friends .... declarations respecting their ulterior designs; it being often asserted that they would ON NO ACCOUNT SANCTION THE INTRODUCTION OF THE UNBAPTIZED INTO THE CHURCH. This," Mr. Brewer said, "and the obvious hopelessness of further opposition, induced several of the strict brethren.....to declare that they would cease from active opposition; myself being one of the number....Frequent reference was made to the Deed, Mr. Brock and his friends assuming that to commune at his second service was no more a violation of it, than to join in the general worship. I openly asserted that the opinion of an eminent lawyer [Mr. Kindersley] was against them...Br. Hastings moved 'that the church censure and condemns the new practice.' I told him that *this was the substance of the protest*, and that with his permission I would substitute—"that the protest, with the signatures, be entered among the records of the church." The motion was made, and was "adopted on the condition that those who wished to withdraw their names should do so.... Such, dear William," he said, "are the particulars. I grieve at the result. I fear the consequences....But I must have ceased from all further active service in this affair, had I not so declared. My health, my life, my peace, imperatively demand it. I am so worn out, and so sick at heart with this strife, that I cannot proceed. I always felt....that Mr. Brock's plan was so laid that we could not touch him but through the Deed....Were I a trustee, I should think it my duty to look well to the Deed."—*Exhibit*, P. 2.\*

\* May the writer briefly bear testimony to the strength of love for Christ which appeared in Mr. Brewer during this struggle.

G. 141, F. 28, say that a majority rejected the motion made May 30, 1846, for the discontinuance of the service.—*Ref.* p. 10 preceding.

G. 143, F. 30, say that the service of 1845 was regularly continued *until* 1857.

BILL XVIII. G. 144, F. 31, A. Gn. all admit that Mr. Gould became minister in 1849.

BILL XIX. G. 145—152, F. 32—35. A. ignorant. G. 145, F. 32, and Gn. ADMIT that no other alleged material innovation occurred till Jan. 1857.

G. 147, and Gn. ADMIT that on Jan. 26, 1857, permission was purported to be given (and G. says *was in fact given*) by resolution to receive E. BAYES "at the L's. Spr. .... as a member of this church; on the ground of her willingness to be baptized as soon as the providence of God allows." The office-copy of the answer of the Five, (32) omits from the resolution the words "*as a member of this church*." It is possible that this is an accidental error. The evidence in the Ch. Bk. and from other sources proves that the words *were* in the resolution as purported to be passed.

G. 148, ADMITS that "*in pursuance of this resolution the said E. Bayes was admitted*" to the L's. Spr. unbaptized; but he and the Five nevertheless deny that she "*was in fact a member before being baptized*."

The Five (33) deny that she "*was ever intended by the.....cgm. to be admitted a member*."—*Ref.* To justify this statement, made on oath, they must prove either that the words "*As a member of this church*," were *not* in the resolution; or that the majority which passed the said resolution were capable of *not intending* that E. Bayes should be received as a member, even when *resolving* that she *be* received as a member.

G. 149, and F. 33, say that E. Bayes was baptized July 1, and "*publicly received into membership*" on July 5, 1857.

G. 151, 152; and the F. 34, 35, ADMIT

To him *personally* it was most painful. It cost him feelings akin to anguish, and required a devotion resembling that of a martyr. A mind so noble and generous, with emotions so sensitive and deep, could not but suffer keenly, from events such as ever attend the course he had to pursue. At the peril of life, until life could bear no more, and all further efforts of his as a member, were, in his view, useless, he bore witness for Christ. He rests in heaven. But his witness lives here still, and indirectly may have influence on earth till Christ shall come.—ED.

the resolution of March 11, 1857, and the reception "in pursuance" of it, of persons, not being Baptists, to cmn. with *this church* in the L's. Spr. on the first L's. day in April, 1857.—*Ref.* p. 18, preceding.

BILL XX. G. 153, 154; F. 36, 37.—GN. believes that the innovations were PROTESTED AGAINST. G. 153, and F. 36, *deny* that they were so, except by the Protest presented to Mr. Brock in 1845, by a Declaration signed by members and delivered to Mr. Gould [June 29, 1857], and by "various verbal discussions and protests of the members."—*Ref.* As to the above protests, pp. 9, 28, preceding; as to other protests, pp. 14, 19 under date of April 11, and p. 46 under date of Jan. 16, preceding.

A. admits that Mr. Norton asked him to interfere. Says that he declined to do so, because he was "ignorant of the merits of the case."

GN. admits that the EFFECT of said innovations has been to exclude various members from church-cmn. and fellowship, and benefits of the trusts. A. cannot say; G. and F. *deny* that the effect has been to exclude *any* therefrom.

GN. ADMITS that the INEVITABLE RESULT of the innovations, if carried out or allowed to continue, must be to destroy the church as regulated by the trust-deed. A. submits this point to the Court. G. 154, and F. 37, *deny* (save as before appearing), that such would be the result.

BILL XXI. G. 155—163; F. 38—46. GN. and A. submit to the Court the point whether the innovations are a VIOLATION OF THE TRUSTS OF 1746. GN. believes that they tend to the MANIFEST INJURY OF THE MEMBERS. A. submits this to the Court. G. 155, and F. 38, *deny* that they are a violation of those trusts, or any injury to the members.

GN. admitted that Willis and Spalding were then members, and had, he believed, been shut out from cmn. by these innovations. G. 155, F. 39, and A. admitted them to be members except so far as their "*acts of separation*" had "determined their membership;" but G. and F. *denied* that they had been so shut out. A. could not say.

G. 155, insists that, and the Five 39, submit whether the *practice of open or strict cmn.* is by the said trusts "LEFT TO THE DISCRETION" of the cgn., so that the alleged innovations are "in conformity" with them.

G. 156, and F. 40, say that on March 30, 1857, a MONTHLY STRICT SERVICE

was resolved on "TO MEET THE CASE of" the members who "might CONSCIENTIOUSLY OBJECT to the practice of open cmn. adopted by this cgn.," on March 11, 1857.—*Ref.* For proof that it did not meet their case, see p. 18, column 2; and p. 48, c. 2 preceding.

G. 157, 158, and F. 41, 42, say that the strict members "did not avail themselves of" the above resolution; and that "*on the first Sunday... of April 1857, and thereafter, the greater number of them, including*" Willis and Spalding, "*absented themselves from public worship,*" and the L's. Spr., and "*in other respects separated themselves*" and "*occupied a chapel called Tombland Chapel,*" where they met "*for public worship, and the celebration of the L's. Spr. on the same days and hours as ...the St. Mary's cgn.*" Yet "*claimed to attend at the meetings of the St. Mary's cgn. for business.*"—*Ref.* See p. 23; 29, col. 2, sec. vii.; 39, c. 2, preceding.

G. 159, said that this "being a case contemplated by the Confession of Assembly, ch. xxvi. ph. 15," he in June 1857, submitted it to Messrs. Angus, Steane, Price, Noel, Brock, Hinton, Landells, and Woollacott, of London, of whom Mr. Woollacott was a Strict Bpt. He said that he was advised by them unanimously that "the minority...ought either to submit" to the *open and strict* resolutions of March 11 and 30, 1857, or "formally to withdraw from membership," and that the cgn. "ought to exercise discipline," if they did not "resume a regular attendance," or request "a dismission" to another church. He quoted Mr. WOOLLACOTT's letter at length. It spoke of the "*much forbearance and kindness*" of the majority!—*Ref.* pp. 25 to 27 preceding. For proof that the appeal of Mr. G. for advice to these ministers was totally different from the proceedings proposed by the Cfsn of 1689, see Norton *Aft.* II. 10, and the Cfsn.

G. 160—163, and F. 43—46, say that a STRICT SERVICE was offered on June 29, 1857, but rejected; also by resolution of March 29, 1858, and that about March 31, 1858, a printed circular was sent to the members," including "the members or *late members*...who had separated themselves," giving notice of Mr. G.'s intention to hold such a service, which was accordingly held on April 11, 1858; but that none of the persons "separating themselves" had attended.—*Ref.* p. 29 preceding, sec. vii.; and p. 48, under March 29.

BILL XXII. G. 165; F. 48.—G. and

F. ADMITTED that numerous attempts at an AMICABLE SETTLEMENT OR REFERENCE TO ARBITRATION" had been made, but had proved wholly unsuccessful. A. and GN. believed that they had been made; and GN. that they had been unsuccessful; but this A. did not know. —Ref. p. 9, col. 1, top; p. 10, Aug. 30; p. 13, Sep. 18; and 29 to 47, preceding.

G. says that the FIRST OVERTURE for arbitration proceeded from the church at *his* instance; and was several times repeated.

G. gives resolution of Feb. 1, 1858, putting an end to correspondence on the subject.—Ref. pp. 29, 47, preceding.

BILL XXIII. G. 99, 100, 166; F. 49—54. A. and GN. admit that the property is "LEGALLY VESTED" IN PRESENT TRUSTEES. G. had already (see phs. 99 and 100) insisted that the present trustees are not entitled to act as trustees. The Five submit to the Court, whether they are so. In phs. 50 to 52, they recite the trust deeds of 1773, 1799, and 1832, and submit whether the property is not now vested in G. Watson and W. Durrant, or their heirs. Compare G. 99.

G. F. A. GN. say that Mr. Gould is still minister.

BILL XXIV. G. 164; F. 47.—G. and F. admit that on April 26, 1858, Mr. Gould reported the names of absentees, and that defts. Fletcher and Tillyard moved the appointment of visitors; but submit that the absentees had not "been forced so to absent themselves on account of the alleged innovations," and insist that the cgn. "is entitled to exercise discipline in respect of such defaulters." G. denies that defts. threaten to expel from the cgn. any "on account of their opinions on cmn." A. and GN. ignorant; and have no intention to expel such persons. GN. had "ceased to attend meetings of the ch. some time before April, 1858."

BILL XXV. G. 167, F. 55—59. G. denies, except as he has before stated, that he is "an ACTING or CONCURRING PARTY in the alleged innovations." The F. deny that they are so "otherwise than exclusively as members;" and say that as trustees they have "never in fact acted otherwise than impartially and indifferently between the parties." G. and F. deny that, except as they have stated, "any application has been made" to them to cause said innovations to cease. A. denies that he is a concurring party; admits "one letter from Mr. Norton." GN. denies that he is a concurring party,

but believes that "the several defts. except" himself are so; that G. and others have "actively promoted" said innovations, and have refused to comply with "repeated applications" to stop them.

BILL XXVI. GN. does decline to be a plaintiff.

BILL XXVII. G. 169, F. 61. G. F. A. GN. submit to the Court the question whether this is a *charitable trust*; and one within the exemptions of the Charitable Trusts' Act. G. F. submit whether the chapel is both registered, and *bond fide* used as a place of worship. A. does not know if it is registered, but believes it to be so used. GN. believes it to be so registered and used.

BILL XXVIII. G. 170, F. 62.—G. admits possession of FOUR CHURCH BOOKS; that is, the one in ph. 89, said to be the "earliest record extant," and three others commencing May 6, 1799; Sept. 1, 1834; and July 28, 1851 respectively. The F. admit possession of "various deeds" relating to the matters aforesaid, and give as "a full list" of them, the trust-deeds of 1746, 1773, 1799, and 1832. A. and GN. deny that they have the custody, personally, of any such documents.

[REMARK BY THE ED. *The plaintiffs* did not authorize any statement to be made nor continued in the Bill when amended, which might imply that a sight of the trust-deeds had been refused. Mr. Norton *personally* had been refused the sight of nothing but the church-books.]

GN. 29, declared that he was a Particular Baptist and an adherent to strict cmn., a member of the church, a trustee of the premises, and opposed to the said innovations; but that he was "desirous of avoiding all disputes having reference to matters connected with religion," and therefore declined "to take any active proceedings in this suit, and to be joined as a plaintiff" in it. He said that he had always performed the duties of a trustee conscientiously, but being nearly seventy, desired to retire from the office, but he submitted himself, in all respects, to the Court.

Mr. Gooderson has, since that time, finished his course. Soon after the judgment of the Court was given, he entered a better world.

Section III. FURTHER ANSWERS OF MR. GOULD AND THE FIVE.

BILL XXIV. G. and the FIVE having been required to make further answer

to ph. XXIV. of the Bill, admitted the intention of defts. Gould, Fletcher, and Tillyard, as minister and members, to propose or concur in a resolution that the acts of those still persisting in "such acts of separation, have *ipso facto* determined [their] membership." Or that they therefore "be excluded," or to that effect. They admitted their intention "to effectuate any such resolution;" but said that "since the commencement of this suit" they had not taken, and "pending this suit," did "not intend to take any step towards any such proceeding."

#### Section IV. THE BILL AMENDED.

After the above Answers were filed, the Bill was AMENDED. The changes made in it left the substance so much the same, that it is needless to add anything to the notice taken of them in the Abstract of the Bill; pp. 50—53, preceding.

These amendments gave all the defts. leave to answer *again*; if they pleased.

#### Section V. THE ANSWER OF GEORGE GOULD TO THE AMENDED INFORMATION AND BILL OF COMPLAINT.

Mr. Gould's is the only Answer to the Amended Bill, and this, though professing an answer to it, does not, it is believed, refer to even *one amendment* in it. This answer is very long: has 83 pgs., many of which do not relate at all to this cgn. It fills 112 pages of foolscap. The present practice of Chancery, though said to be improved, does not prevent such a course as this. The answer relates *partly* to REDEMPTION, partly to COMMUNION.

Pl. and Df. refer to the affidavits for plaintiffs and defendants. In the case of joint affts. only the first name is, in most cases, given. Cs.-exn. refers to the cross-examination of plaintiffs' witnesses.

Ph. 1. "The TERMS used in my first answer,...whenever used in this answer, are so used in the senses respectively in which the same are defined and used in my said first answer."

[REMARKS BY THE ED. In Mr. G.'s Ans. I. 11, "particular or limited rdpn." is thus defined:—"Christ by his perfect obedience and sacrifice of himself, purchased salvation for all...the elect;" and in ph. 101, thus:—"this doctrine then was that Christ by his death did purchase salvation for the elect." This definition agrees with that of the Bill; the words of which were *quoted* from article 21

of the London Cfsn. of 1646. But in Ans. III. a *new* definition is given, and the deft. in his SERMON of June 3, 1860, p. 19, said: "In the progress of the suit, it was discovered that so *ultra* were the views adopted by Mr. Norton as to 'limited redemption,' and attempted to be imposed by him upon this congregation that neither your late pastor Mr. Kinghorn, nor Mr. Brock, nor Andrew Fuller, nor Robert Hall, nor even Dr. Owen himself (had he been a Baptist) would have been admissible to membership or communion with this church. The cross-examination of several of his witnesses established this fact, and revealed to all observers the true character of the proceedings against us. This purpose had, however, been anticipated and provided against. The history of the doctrine of redemption, as held by Protestants,...was compiled and laid before the court: and, to the astonishment of all who were present, in a very early stage of the hearing, this part of the case against us was formally abandoned. Not a word could be said to support the monstrous bigotry which had crawled into the light of day."

The words here printed in italics, suggest these inquiries: 1. Did Mr. Norton "attempt to impose" his *own views*? 2. Was not the view of "particular or limited redemption," which was given in the Bill, that of *all* the Particular Baptist Confessions, and of Particular Baptists in general at and before 1746? 3. Did not Mr. Gould, in his Ans. I., ph. 101, admit that *it appeared*, and was proved, by the confession of 1646, and that of 1677 and 1689, that the said view was that which was held in 1746? 4. If Mr. Gould, in his third ans., wished to make it appear that a view different from that of the Bill and his first answer was the view held in 1746, was it something in Mr. Norton, or was it *this wish in himself*, which needed to be "provided" for by means of this third ans.? 5. Is it *true* that Mr. Kinghorn and Dr. Owen *did not hold* the doctrine set forth in the bill? 6. What had the views "held by Protestants" at large to do with those of this cgn.? 7. Is it true that this part of the case was "formally abandoned,"\* or that "not a word could be said to support" the allegations of the

\* The plaintiffs had no intention to abandon it. The instructions given related to the whole case; but counsel supposing this difference to be of little extent or importance, called to it little attention.—ED.

Bill on this point? 8. If Mr. Gould deems the view of particular redemption actually held in 1746, to be "monstrous bigotry," is he himself "admissible to membership and comm., and entitled to preach in a place of worship put in trust for those only who hold the view of 1746? 9. Thirteen leading free-comm. Baptists have deposed on oath, in this suit, that those who have held the doctrine defined to be "particular redemption" in this third ans. have "*hitherto* included... a majority of Particular Baptists." What view does this give of their information or credibility, and of the means resorted to for the promotion of free communion? 10. Are the *doctrines* of the gospel safe under the influence of a system not only of such kind, but using such means for its support?—ED.]

PHS. 2—8. PARTICULAR REDEMPTION NEWLY DEFINED AND SAID TO DIFFER FROM LIMITED REDEMPTION.—2. "The terms 'particular' and 'limited,' used in [Bill, ph. III.] are not strictly synonymous, and in order to *prevent misapprehension, the proper use* thereof respectively, is stated and defined" as follows. 3. "Particular rdpn. [was] first used among Bpts. in contradistinction to.... general rdpn. 4. "The terms 'limited redemption have never been, nor are,... in use among Baptists.... LIMITED ATONEMENT [is] sometimes used [for] the doctrine hereinafter :... called :... LIMITED REDEMPTION." 5. "Among Particular Baptists...one party [holds]...particular...the other limited redn....as herein-after defined. 6. ATONEMENT...is used in this ans. [for] the satisfaction... made by... Christ,... providing for the manifestation and application of Divine mercy to man. REDEMPTION, [for] actual deliverance from sin and its consequences by the application of Divine mercy through the atonement." 7. "PARTICULAR REDEMPTION [as here] used, [is] the doctrine that the ATONEMENT,...in point of sufficiency, was infinite, and made for the sins of the whole world;...but, in point of efficiency, will only be applied, by way of REDEMPTION, to the subjects of Divine predestination to salvation." 8. "LIMITED REDEMPTION [as here] used, is the doctrine that the ATONEMENT,...in point of sufficiency was limited or defined, and made for the sins, not of the whole world, but only of the subjects of Divine predestination to salvation; to whom that atonement in point of efficiency will be applied by way of redemption."

[REMARKS.—"Limited" was used in

the Bill in its true and common meaning, to denote a redemption which is *not* "general," but limited to particular persons,—the elect. The new definitions involve great inaccuracy, confusion, and self-contradiction. They are INACCURATE.

REDEMPTION, as held by Particular Bpts. in 1746, is purchase, not "actual deliverance;" it relates to the death of Christ; not to the work of the Spirit. PARTICULAR REDEMPTION denotes salvation *purchased for*, and not merely *imparted* to particular persons. REDEMPTION and ATONEMENT were viewed as of like extent, and as two names for the same thing, that is, for the *efficacy* of the death of Christ; viewed in the one case as a *price paid* to recover from bondage or alienation; in the other as a sacrifice in the room of, and to arrest the doom of the condemned. But the greatest inaccuracy is that what is here declared on oath to be *particular* is *general* redemption; for particular and general relate to the *persons* for whom Christ died as a ransom and atonement; and the doctrine that he so died for the whole world is the doctrine of general redemption.

The definitions are full of CONFUSION. REDEMPTION, for instance, if "actual deliverance *through* the atonement," must be *distinct* from the atonement, and cannot *include*, as it is here said to do, views of the atonement. The term PARTICULAR also, does not, cannot convey the meaning of "*infinite*," and "*the whole world*;" for instead of referring to what is *infinite* and *universal*, it denotes speciality and limitation. SUFFICIENCY does not include PURPOSE: it cannot be said that "*in point of sufficiency*" the atonement "*was made for*" this person or that. "Made for" denotes *purpose*, and purpose is *distinct* from sufficiency. The sufficiency of wealth to purchase an estate, is wholly *distinct from purpose* to do so. SUFFICIENCY also is *identical* with EFFICIENCY in whatever God intends. The atonement cannot be sufficient" and "made for the sins of the whole world" without being "efficient" also, to put them away; and without being *applied also* to those for whom it was made. Neither is there ROOM FOR ANY QUESTION at all as to "the extent of the *sufficiency*," or "*efficiency* of the atonement;" for *actual atonement* cannot be distinct from sufficiency or efficiency. The sole question is, For whom was actual atonement made? *for* the elect or for the whole world? If a person's sins were actually atoned for, and

put away by the sacrifice of Christ, it must have been sufficient and efficient to atone for them; if they were not atoned for, then there was *no atonement* made; and however sufficient Christ may be in the dignity of his nature to *have made* an atonement for all men, if he had borne their sins in his body on the tree, this *possibility* has nothing to do with the *fact* as to actual atonement.

The deft. by these definitions wholly CONTRADICTS his first answer, though he in ph. 1 of this, professes to confirm it. REDEMPTION, for instance, is *purchase* there; merely *application* of purchase here; PARTICULAR and LIMITED RDPN. are the *same* there, they are *different* here; PARTICULAR related to the *elect* there, here (in point of sufficiency) to "the whole world." The definitions, too, of this answer clash among themselves. If redemption be "actual deliverance from sin and its consequences," then *particular* must be *limited* redemption also; for such deliverance is salvation, and salvation is *not universal*.

Ref. Pl. Norton I. 24, 26; Cs.-exn. of witnesses. Df. Crisp, and 13 others, 2, 21, 22.

Phs. 9, and 26—30, relate to GENERAL REDEMPTION, of which, as of particular, a new definition is given, and the distinction between it and particular is made to consist, not in *purchase* by Christ, but in *application* by the Spirit. The doctrine is said in Ans. I. 101, to be that Christ "*purchased* salvation for all men;" but here in ph. 26, it is said to be that "the atonement made by... Christ, not only in point of sufficiency was made for the sins of the whole world, but also in point of efficiency is applied to all mankind, so far as to procure for all of them Divine grace enabling them to accept the Divine offer of salvation." In respect, therefore, of Christ's death being a ransom or atonement *for the whole world*, both particular and general redemption are made to *agree*, although this is one point of *essential difference* between them. Their difference is said to be *one of application* of the atonement. The deft. denies the name "particular" to what is really particular redemption, and calls by that name a theory which is really *general redemption*, associated with the belief of *particular application*, or effectual grace. Ph. 28, quotes Dr. Smith as saying that Arminians regard redemption as "not rendering certain the salvation of any, but making possible the salvation of all (Theology,

p. 448). Phs. 29, 30, refer to the General Bpt. Cfsns. of 1611 and 1660. The "Orthodox Creed" of 1678, though a Gl. Bpt. cfsn., is not named here, but is wrongly mentioned in Ans. I. 75, as a Pr. Bpt. Cfsn. The 18th article says, "*Christ died for all men*, and there is a *sufficiency* in his death and merits for the sins of the whole world." This was the doctrine of *general redemption* then.

Phs. 10—25. "VARYING...THEORIES respecting...redemption."—11. "The doctrine taught...by the LUTHERAN formularies;" 12, by CALVIN in his Institutes;—13, by the articles of CONVOCATION of 1552; 14, by those of "the National Synod of the SCOTTISH REFORMERS" in 1560;—15, 16, by the SYNOD OF DORT, of 1618, 1619; and 17, by the Westminster Assembly of 1643, and the Independents, at the Savoy.

Ph. 18, says that the LONDON PR. BPT. CONFESSION of 1644, 1646, 1651, 1652; and that of the Pr. Bpt. Assemblies of 1677 and 1689, teach that atonement was made for all.

Ph. 19, says that some alterations made in the 2nd edition of the LONDON CONFESSION indicate an apprehended liability of the first edition to "misconstruction as teaching the doctrine of limited rdpn," as here defined.

Ph. 20 compares the first three editions as to articles 3, 5 or 6, 10, 12, 14, 17, 21, and 25. [Ref. The alterations leave the doctrine that Christ by his death purchased salvation for the elect untouched. For instance, art. 21, in ed. 2 has the words, "Christ by his death did purchase salvation for the elect that God gave unto him. These only (1) have interest in him ;....to them alone (2) doth God by his Spirit apply this redemption, as also the free gift of eternal life is given to them, and none else." In ed. 3 "only" and "alone," marked 1 and 2, are omitted; but notwithstanding these omissions, the article teaches still that Christ *purchased salvation for the elect, and not for the whole world*.—ED.]

In ph. 21, the said statements as to the London Confession are said to be confirmed by the language of PAUL HOBSON, who signed edns. I. and II. In the extract given, he says, "the end of God in the act of Christ's coming was the purchasing of spirits into life and into love. This was and is *to some and not to all*."

In ph. 22, the said statements are said to be confirmed by the words of BENJAMIN COXE, who signed Edn. II. His Appendix to Cfsn. of 1646 is quoted.

[In art. 1 he says that "redemption is a redemption from eternal misery and torment." The second part of Mr. Spilisbury's Treatise of 1646, entitled "God's Ordinance," &c., is said, in the title-page, "to be transcribed and somewhat enlarged by Benj. Coxe," and the title says that, in this second part, "it is proved that Christ hath not presented to his Father's justice a satisfaction for the sins of all men; but only for the sins of those that do or shall believe in him, which are *his elect only*." In a *preface* to this work Mr. Coxe states and affirms the same doctrine.—ED.]

In ph. 23 the doctrine taught by the PR. BPT. CFSN. of 1677, 1689, is said to be what Mr. G. calls particular rdpn.—that of *atonement for all*. He quotes chap. iii. secs. 3, 6, including the words, "they who are elected.... are redeemed by Christ," &c., "neither are any other redeemed by Christ," also vii. 2; viii. 5, 8; "to all those for whom Christ hath obtained eternal redemption, he doth certainly and effectually apply and communicate the same;" and x. 1, xiv. 1. xx. 1.

In ph. 24 it is alleged that from a collation of this cfsn. with those of Westminster and Savoy on which it was based, "it appears that [this] was carefully framed with the view of excluding any inference in favour of the doctrine of limited rdpn."—*Ref.* The extracts in ph. 23 are sufficient to show that it was not framed to prove that atonement was made for all men.

25. Those who adopted cfsn. of 1689 were persons "denying Arminianism."

Phs. 31—33, and 43—52. This church said to have "always hitherto" held the doctrine called by deft. pr. rdpn., namely, that Christ "MADE ATONEMENT FOR THE SINS OF THE WHOLE WORLD."

Ph. 32, says that the earliest use of "particular" to describe Baptists, which deft. knew of, was at the establishment of the Pr. Baptist Fund in 1717.—*Ref.* Norton I. 24.

Ph. 33, says that the ARTICLES in the first ch. bk. teach ATONEMENT FOR ALL. Art. I. is quoted, stating that God has revealed "a way for the redemption and salvation of a certain number of mankind by Jesus Christ;" and sent him "to save his people from their sins;" also Art. II. stating that the new covenant is "an absolute unconditional covenant, being made with Christ our Head as in relation to us." Art. III. stating that God did "predestinate a certain number of persons who were chosen in Christ,"

and "ordained to eternal life, and the rest of mankind are left, on whom God will show his wrath." Arts. IV. and V., are quoted also. [The above extracts are sufficient to show that the articles give no countenance to the doctrine that Christ died for the whole world.—ED.]

Phs. 43—50. The *hymn books used by it*.

Ph. 43, says that it has long used and still uses, Dr. Watts's hymns, and for about seventy years, until 1838, a collection by Drs. Ash and Evans, of which Mr. Kinghorn edited and published for its use a new edition in 1814, and added a supplement; also in 1827 another edition.—44. Both books said to teach the doctrine of pr. rdpn., that is, of UNIVERSAL ATONEMENT.—45. In hymn bks. used by cgn. holding *definite atonement*, "all hymns and parts of hymns considered to express or imply" what is included under the "*sufficiency of the atonement*" in Mr. Gould's definitions, are said to be "excluded or altered."—46. One of these hymn books is "edited by Mr. W. GADSBY." The wish expressed in its *Preface* to have a selection "free from Arminianism" is said to mean "*free from the doctrine of particular redemption*," that is, in the deft.'s sense of an "*atonement made for the sins of the whole world*," which (so called) "doctrine of pr. rdpn.," the deft. says, the hymn bks. of Watts, Rippon, and Hart, "are well known as teaching."—47. Another of these is one "edited by Mr. JOHN STEVENS." The words "Arminian dashes," in the *Preface*, meant, the deft. says, "*the doctrine of particular redemption*."—48. Deft. finds on collating St. Mary's book with those of Mr. Gadsby and Mr. Stevens, that many parts of hymns teaching what he calls "the doctrine of particular redemption," are "inserted with alterations in these latter books, or are omitted."—49. Among examples given of omissions are these lines:—

"He comes from an abyss of woes,  
To raise our ruined race."  
"For sinners 'twas he bled."  
"A ransom for our wretched race."

One instance given of *alteration* is that Mr. Gadsby had altered the words

"O there may I,"

to

"And there have I, as vile as he,  
Washed all my sins away."

The following lines of the same hymn are quoted as being in the St. Mary's collection:

"Till all the ransomed church of God,  
Be saved, to sin no more."

[REMARKS.—The use by this cgn. of the hymns *unaltered*, in which the above lines occur, is alleged as *proof*, it must be remembered, that it held the doctrine that Christ made atonement for the sins of the whole world. But does “the ransomed church” mean the ransomed world? May not the words “a ransom for our wretched race” have been understood to mean for *persons* of that race, just as the words “to raise our ruined race,” meant a purpose to raise *the elect* of that race, and *not the whole race*, to a state of bliss? And who will allege that Christ bled for any but “sinners?”—*Ref. Pl. Norton I. 27. Df. Cozens, elder, 3, 4: Fletcher, 3, 4.*

In phs. 50, 51, *deft.* states his belief that “no objection was ever made,” by any member of this cgn., to the use of the St. Mary’s collection “on the ground that [it] teaches...pr. rdpm. and does not teach...limited redemption,” used in the senses of *universal* and “*definite atonement*.” He says that from its formation hitherto, it has taught and held the former “*exclusively of*” the latter. But in ph. 52, he says that its practice has “*never been* to require any profession or declaration of opinion on the subject,” from candidates for membership, nor any profession but one of repentance, faith, and obedience.—*Ref. Afft. of Moore and others; Hastings, cs. exd.*

PHS. 34—41, MR. KINGHORN’S VIEWS OF REDEMPTION.—34. He is said to have “*undoubtedly held the doctrine of pr. rdpm.*,” that is, of atonement made for the whole world. 35. Alleged proof: his *Ordination Confession* of May 20, 1790; *Life* by Wilkin, p. 176, lines 5—9, 15—19; also, p. 177, lines 8—16.

[The editor is unable to quote anything pertinent from these extracts; but the following sentence is *not* quoted, p. 176, last lines, “the Lord’s Supper is a commemoration of his [Christ’s] sufferings and death for the sins of his people.”]

36. Further alleged proof: *Edn. II. 1813* of his “Address to a Friend,” the words, “salvation is a gift...founded on the atonement,” &c.; also *Edn. III. 1824*; “God sent his Son to become a sacrifice for the sins of those who should believe in him.” “He died for all who believe in his name.” [But those who believe are the elect; atonement for them is not *universal*, but *particular atonement*; see also, p. 8, 1824, the words, “He died for them, that they should not die eternally; and his resurrection was a proof that his sacrifice was ac-

cepted. and the atonement he made was complete.”—*Ed.*]

PHS. 37—40. *Alleged proof* from a letter of Jan. 21, 1817, in *Life*, p. 360, saying that he rejected “certain inferences which Hyper Calvinists derive from the [Calvinistic] system;” also from one of Feb. 8, 1817, in *Life*, p. 362, to the effect that even under the law of works, men were “under a dispensation of grace.” Also from one of Feb. 19, 1821, in *Life*, p. 376, stating that those who “accept not the new covenant; live under it” as “a dispensation,” or “plan of Providence.” [The editor is unable to give anything from the above paragraphs which seems to relate to the subject.]

Ph. 41. *Further alleged proof* from a letter of May 11, 1826, in *Life*, p. 416. This letter was used in cross-examining some of plaintiffs’ witnesses, in order to draw from them a denial that Mr. Kinghorn held the doctrine of particular redemption, as defined by them, to be that *Christ died to atone exclusively for the sins of the elect*. Mr. Kinghorn says in the extracts given: “Do the Scriptures...lead us to conclude that, suppose the number of the elect was greater than it is, the atonement made by the death of Christ would be insufficient for their salvation?” [His question relates to a *supposition*; to the supposed power of Christ’s death, considered in itself, to have saved not merely the elect whom it actually saves, but more elect persons, if God had pleased to use it for that end. The atonement, properly so called, is a fact; it is the actual putting away of sins; and Mr. Kinghorn must be admitted to have misapplied the term, when he called the possible power of Christ’s death to save, “atonement.” This gives to a part of these extracts the appearance of admitting that Christ actually died for the sins of more than the elect. But another part of them denies this.

“How can you prove,” said Mr. Kinghorn, “that there was so much atonement made for sinners precisely, and no more?” The reason he assigns why this cannot be proved shows, as the question does, that by “so much atonement” he meant so much suffering, &c., not so many persons atoned for. The reason he gives is this. “Since it was the character of the Sufferer that gave weight to both his obedience and suffering, how are we to throw a line round infinity, and measure that which is beyond measure?” The infinite weight of Christ’s obedience and suffering does leave it possible for it to



have been *actually* used by God to expiate *only* the sins of the elect; but it makes it impossible for us to prove that Christ's death would have been unequal in *power*, if God had pleased to use it for that end, *to atone for* and put away the sins of more than the elect.

Mr. Kinghorn, speaks of LIMITED REDN. in connection with atonement, thus: "What then, you may ask, LIMITS THE REDEMPTION OF SINNERS; and draws the line of distinction between that general idea of redemption, which, by taking in everybody, makes it especially applicable to nobody; and the opinion of the highest Calvinists, viz., so much atonement and no more?" He assumes that redemption is limited, but denies that it is limited by "so much atonement, and no more," that is, by the want of power, or capability, in Christ's "obedience and suffering" to *have* made atonement for more than the elect. To his question "What *limits* redemption?" he says, "I reply, the election of grace: so that the Lord came to fulfil a plan; making an atonement, which in point of power, would have saved more *had* more been included in the plan, but in point of design, and ultimately in point of application, WAS MADE FOR THOSE WHO WERE GIVEN HIM." The words "*would have saved, &c.,*" show still more clearly that Mr. K. *had* been referring to a supposed case. He then refers to the *actual* "plan" of atonement and redemption; and speaks of both redemption and atonement as limited by *plan and design to those given to Christ*, and as actually "*made for,*" as well as ultimately *applied to, them only*; which is the doctrine of plaintiffs' witnesses, that Christ died *exclusively for the redemption of the elect*. Ed.]—*Ref.* Cs. exmn.

Ph. 42. Mr. ANDREW FULLER's opinions said to be "IDENTICAL WITH" Mr. Kinghorn's, as expressed in the above letter. Mr. K.'s admission of some agreement with him in his "general ideas of truth," but not "in all his speculations," (Life. p. 317) quoted. "Mr. Fuller's words in Conversations on pr. rdpn." (works, v. II. p. 520) quoted. "The particularity of redemption consists in the sovereign pleasure of God with regard to the application of the atonement; that is with regard to the persons to whom it *shall* be applied." Also Mr. F.'s quotation with approval (vol. II. p. 522) of a passage from DR. OWEN'S "Death of Death" (works by Goold, v. X., p. 295), "Sufficient, we say, was the sacrifice of Christ

for the redemption of the whole world," &c. "This is its own true internal perfection and sufficiency. That it should be APPLIED unto any, made a *price* for them,...is external to it, doth not arise from it, but merely depends upon the intention and will of God."

[REMARKS.— This passage from Dr. Owen was used in the cross-examination of some of plaintiffs' witnesses, in order to show that they *differed* from Dr. OWEN as to what is particular redemption. Their definition of it however *agrees* with that of Dr. Owen; that of Mr. Fuller does not. The word "applied," as used by Dr. Owen, in the above extract, does not refer to the application *by the Holy Spirit* of an atonement *already made*, but to the application of *Christ's death, to make an atonement*. Mr. Fuller speaks of redemption as "deliverance," and as an "effect of atonement," (II. 524), Dr. Owen views it as a *purchase by price*, effected, like atonement, *by Christ's death*. In the very words which immediately follow those quoted by Mr. Fuller, he says: "It [the sacrifice of Christ] was in itself of infinite value and sufficiency to *have been made* A PRICE to have bought and purchased all and every man in the world. That it did formally *become a price* for any, is solely to be ascribed to the purpose of God, intending their *purchase and redemption* by it. The *intention* of the offerer and acceptor, that it should be for *such, some, or any*, is that which gives the formality of a *price* to it." Mr. Fuller's theory resembles one which Dr. Owen called "that old distinction of the schoolmen, ...that Christ died *for all* in respect of the *sufficiency* of the ransom he paid, but not in respect of the *efficacy* of its *application*:" and of this Dr. Owen says:—"It is denied that the blood of Christ was a *sufficient price* and ransom for all and every one, not because it was not sufficient," that is to have been made a ransom, "but because it is *not a ransom*." To say that Christ *died for all*, "holds out," he says, the *intention* of our Saviour, in the laying down of the price, to have been *their redemption*; which we deny, and affirm that then...*they must be made actual partakers of the eternal redemption purchased for them*." Dr. Owen defines what he calls "particular effectual redemption (X. p. 416, 414), to be that "Christ died for the elect only," and "by his death purchased all saving grace for them." The above extract quoted by Mr. Fuller, appeared to mean what it did not.—ED.

*Communion*, phs. 53—82.

Ph. 53. This cgn. has never required a profession of OPINION AS TO COMMUNION from candidates for membership.—54. At church meeting held Oct. 27, 1834, "several members...refused to receive any statement" as to whether ELIZ. KITTON was in favour of strict cmn.

55. Deft. ALLEN ELECTED DEACON in 1835. A deacon as well as the pastor, might then be one who held *opinions* in favour of open cmn.

56. PR. REDPN. and CMN. IN L'S SPR. : this cgn. said not to have required from *non members*, any profession as to pr. redn. in order to such cmn., and to have "never refused admission" to it, to Baptists holding general atonement, or general redemption.—*Ref.* No proof given. See Aftt., Moore and others.

57, 58. CMN. BETWEEN PR. and OTHER BPTS. : Mr. KINGHORN said to have held that the principle of strict cmn. permitted such cmn. His letter of April 20, 1818, *Life*, p. 408, quoted. Mr. Hall had said that "the principle of strict cmn. required agreement in doctrine," so that with Arminians, Arminianism, and with Calvinists, Calvinism, "must be a term of cmn." Mr. K. said, "both these parties may in perfect consistency with their principle of strict cmn., unite at the L's table."—*Ref.* Afterwards Mr. K. in his *Defence*, 1820, p. 75, said that he who regards Calvinism as "essential to faith in Christ, must make [it] a term of cmn.;" and in "Arguments," 1827, p. 14, objected to Mr. Hall's system that the oneness it advocated was one of "many faiths," instead of "one faith." But it is not a question of Mr. K.'s *private opinion*. The founders at and before the date of the trust-deed did limit cmn. to those who agreed with it in *doctrine*, and the *trust* itself is for *Pr. Bpts.*, and for them *only*. Bill, phs. 1, 8; Norton I. 26, 27.

59. This cgn. said to have "NEVER REFUSED" cmn. in "L's Spr. to any Baptist, whether advocating...open...or strict cmn."

60, 61. MERE OPINIONS IN FAVOUR OF OPEN CMN. no bar, in Mr. K.'s view, to membership, or to cmn. in L's Spr. Quotation from his "Baptism a Term," &c., 1816, p. 172; in which he says that what Christ required in church members is agreement in "*practice*" as to "*commands*," not in "*inferences from*," or "*speculations*" upon them.—*Ref.* Norton I. 23.

62, 63. ALLEGED PROBABILITY OF A MAJORITY HOLDING OPINIONS in favour of

open cmn., for seventy years past.—*Ref.* Remarks on Gould, Ans. I. ph. 109, at p. 61, col. 2, preceding.

64—71. Mr. KINGHORN : 64, undecided in *opinion* till 1690;—65. His ordination-cfsm. said to be silent on the point, *Life*, p. 176.—66. In 1794 he said (*Life*, p. 236), "I am apprehensive we shall have the question about mixed cmn. agitated in our church," &c.—67. Afterwards, in same year (*Life*, p. 237), said it was "not mentioned yet," and that he was "undecided."—68. On April 8, 1694 (*Life*, p. 238), said "the controversy about mixed cmn. is still on hand. .... That which is called the liberal plan, if followed up close, will lead to the reception of every moral man one step above an infidel," &c.—69. He is said to show "in the successive editions of [his] 'ADDRESS TO A FRIEND,' the modifications of the doctrine taught by him" on cmn., and to have been in the practice of giving this pamphlet "to candidates for admission, as a formal statement of the doctrines and usages held and practised by [this] cgn." (*Life*, p. 459).—70. Edns. I. 1803, II. 1813, and III. 1824, *all* said : "Baptism ought not to be considered as the condition by which you become a member of a [or the] Christian church, but as the evidence of faith in Jesus," &c. In edn. III. he said also that *at first* no one was, and that *now* no one ought to be "received into Christian fellowship" until baptized.—71. In his Appendix to Edn. II. he said : "THE BAPTISTS, in common with Christians in general, conceive that baptism ought to precede ch.-cmn.;" and in App. to Edn. III. gave as a reason the *uniform practice* of the first churches, and the want of "any direction to admit" others. [The words "Baptism ought not to be considered," &c. were inserted in *each* edition; and therefore clearly meant no more than that *though* baptism is a *condition* of membership, a candidate is not to consider it chiefly in that light.—Ed.]

72. WHILE THIS CHAPEL WAS BEING ENLARGED in 1797, this cgn. joined in worship for nine weeks with two Independent cgns. : "no record" that then "it celebrated the L's Spr. apart."

WHEN THE CHAPEL WAS REBUILT in 1811 Mr. K. *declined an invitation* given to it by the Independent ch. at the Old Meeting to unite with it in the L's Spr. ; at which refusal "considerable surprise was expressed by several members" of this cgn. favourable to open cmn.

73. COST OF REBUILDING IT in 1811 : about three-fourths said to have been

given by members and others holding opinions in favour of open cmn.

74, 75. IN 1812 "MANY MEMBERS OF [this] cgn. felt a strong desire" for open cmn.; and a conference was held between deft. J. Cozens, the elder, Messrs. Brewer, Johnson, and T. Theobald, in favour of open, and Messrs. Kinghorn, Culley, W. Bear, and Playford, in favour of strict cmn., "with reference particularly to...Messrs. Brightwell and Piggins," but "no conclusion...was adopted."—*Ref.* See Mr. Brightwell's Afft. on the part of defts. in this suit.

76. OPEN CMN. FREQUENTLY AGITATED at ch. meetings for business till 1816; but during the remainder of Mr. K.'s ministry, the members in favour of it "abstained from such agitation in deference to" him, and lest he should "resign."

77. "But such members... did not... MODIFY THEIR OPINIONS in favour of such practice." Mr. Brewer published two pamphlets, one in favour of open, and another afterwards in favour of strict cmn.

78. THE PLTF. S. WILKIN, from Oct. 12 1808, till "some time after" Mr. K.'s death, was "a zealous advocate of... open cmn."—*Ref.* Not correct: Afft. S. Wilkin.

79. THE CHAPEL ENLARGED IN 1838: about two-thirds of cost said to be contributed by persons in favour of open cmn.

80—82. THE L's. SPR. WAS OBSERVED "WITHOUT THE PRESENCE OF ANY MINISTER," for the first time in 1798: this is adduced as "evidence of the changes... introduced... without any formal record." Mr. K. approved of it. *Life*, pp. 286, 289.

83. Leave asked to refer to books, &c., as part of this answer.

#### SECTION VI. AFFIDAVITS ON BEHALF OF PLAINTIFFS.

*Aft. 1 for pltf's. W. Norton's first Afft.*

EXPLANATIONS.—The books referred to in this afft. (*Exhibits* 1—52), are the following:—*Exbt. 1.* Bagster's English Hexapla, 1841.—*2.* Thomas Grantham's Christianismus Primitivus, 1678.—*3.* Vol. II. of Bunyan's works, by Offor.—*4.* T. Edwards's Gangræna, 1646.—*5.* Dr. Featley's Dippers' Dipt, 1647.—*6.* Baptist Cfsns., Edn. of Hanserd Knollys Society, 1854.—*7.* The Broadmead Records.—*8.* Pilgrim's Progress, Offor's edn.—*9.* Dr. Wall's Hist. of Infant Baptism, 2nd edn., 1707.—*10.* Dr. Gale's Reply to Dr. Wall, edn. of 1820.—*11, 12.* Vols. 3, 4, of works of Robt. Robinson of Cams.—*13.* Rippon's Register, 1790.—*14.* Dr. John Owen's Death of Death.—*15.* vol.

10 of Dr. Owen's Works, by Goold.—*16, 17.* Dr. Gill's Cause of God and Truth, edn. of 1814.—*18.* J. Brine's Vindication of some Truths, 1746.—*19*—*21.* D. Neal's Hist. of the Puritans, 3 vols. Tegg, 1837.—*22*—*25.* T. Crosby's Hist. of the Eng. Bpts., 4 vols., 1738—1740.—*26.* A. Booth's Apology for the Bpts., 1778.—*27*—*30.* Walter Wilson's Dissenting Churches in London, &c., 1808—1814.—*31*—*34.* Joseph Ivimey's Hist. of the Eng. Bpts., 4 vols., 1811—1830.—*35.* Rt. Hall's Terms of Communion, 4th edn., 1820; and "Short Statement," 1826.—*36.* Jos. Kinghorn's Baptism a Term of Communion, 1816; and his Defence of it, 1820.—*37.* Rt. Hall's Reply to J. Kn., 1818.—*38.* J. Kinghorn's Arguments against Mixed Cmn., 1827.—*39.* Life of J. Kinghorn, by S. Wilkin, 1855.—*40.* Life of Hall, by Gregory, Bohn, 1856.—*41.* Dr. W. Richards' Welsh Biography.—*42, 43.* Dr. T. Price's Protestant Nonconformity, 1836—8.—*44.* Baptist Manual, 1859.—*45.* J. G. Fuller's Dissent in Bristol, 1840.—*46.* R. B. C. Howell on Cmn.—*47.* Dr. T. F. Curtis on Cmn., 1850.—*48.* St. Mary's Collection of Hymns, by Drs. Ash and Evans.—*49.* Dr. Watts' Psalms and Hymns.—*50.* Articles of Ch. of Elias Keach, and his Glory and Ornament of a True Gospel-constituted Ch., 1697.—*51.* Original Copy of London Cfsp, edn. of 1652.—*52.* B. Hanbury's Historial Memorials, vol. I.—

When the name of one of these authors is mentioned, without naming any work, in the following abstract, the work referred to is that of the above list. The substance only of these affidavits is given, except where words stand between commas of quotation. *References* are made to places in the Bill, and in other affts, in which the same subject is mentioned.

1. SOURCES OF DEPONENT'S INFORMATION: "particular attention and study, ...books and documents hereinafter mentioned," and "personal knowledge so far as [he has] been individually concerned."

2. TERMS USED: the church and chapel in question are called *this church*, &c.; its books and minutes, *the books*, &c.; believers "*immersed* after a credible profession of their faith," are meant by "*baptized* believers."

3. This was the ONLY CGN. OF PR. BPTS. in Norwich in 1746.—*Proof 1*, no other in 1753 and 1763; list in Ivimey IV. p. 13.—2. No reference to any other in *minutes of this ch.*, or *any where*, so far

as W. N. knows.—*Ref. Bill*, ph. 2, and *Answers* to it.

4. This *cgñ.* EXISTED MORE THAN FIFTY YEARS BEFORE 1744.—*Proof*: 1. Messrs. Austin and Flatman, of this church, formed part of the London Assembly of Messengers in 1689, Ivimey I. 508.—2. Their names are inserted immediately after the church-articles and covenant at the beginning of the first church-book, in a list of the members.—3. The *first minute* is a request that Mr. Flatman “would assist in preaching.” Its date is partly worn away, but seems to be 87 or 89, that is, 1687 or 1689. The next minute, dated 1693, shows that the ch. had then existed at least for several years.—*Ref. Bill*, ph. 2, and *Ansrs.* to it.

5. This *cgñ.* “CONSISTED OF MEMBERS AND TRANSIENT MEMBERS, the latter being members of other churches admitted to transient *cmñ.* with this church.”—*Proof*: 1. A *minute* of April 10, 1774, mentions the “transient members.”—2. There are *sic* lists of members from the beginning of ch. bk. to 1832; and of the women members, the 22nd and 36th in a list beginning May 6, 1779, and the 41st in that beginning on p. 18, of bk. II. are said to be “transient;” the second was “from Ellingham church.”—3. Mr. E. Keach, in his “Glory,” &c., pp. 35, 36, says a church may receive “to transient *cmñ.* an orderly member of a church of the same faith.”—4. The messengers of the Kent and Sussex Pr. Bpt. churches in 1792, (letter bound up in Exbt. 13, Rippon,) recommended “*transient members* to join the respective churches where they dwell, when it is not convenient to fill up their places in their own churches.”—*Ref. Bill*, ph. 4, and *Ansrs.*

6. This *cgñ.* USED CHURCH AND CONGREGATION IN THE SAME SENSE.—*Proof*: 1, Art. 9, in first ch. bk. “The visible... *ch.*...is a particular *cgñ.*”—2. The minute of Aug. 5, 1744, states that “the church” appointed the trustees of the deed of 1746, which deed calls the church “the said *cgñ.*”—*Ref. Bill*, ph. 3, and *ansrs.*

7. This *CGN.* “WAS AN ORGANIZED SOCIETY ... AND NOT A PROMISCUOUS ASSEMBLY of public worshippers.”—*Proof*: Tyndale and Cranmer’s translations have commonly, and the Geneva has, in some places, *cgñ.* where *ch.* is used in present common version. Hexapla, Acts xiv. 23; viii. 1, 3.—2. *Baptist use*: title of London Cfsn. of 1646; second title of Somerset Cfsn. of 1656; chap. 26, secs. 2, 3, 5, of Cfsn. of 1677 and 1689;

Crosby’s Hist., A.D. 1738—1740, I. 194, 215, 354, 358; IV. 3, 4, 155, 156, 169, 183, &c.—*Ref. Bill*, ph. 3, and *Ansrs.* thereto.

8. This *cgñ.* was “INDEPENDENT” of all others. Some Pr. Bpt. *cgñs.* DIFFERED FROM OTHERS “in their constitution and rules.” MINISTERS AND MESSENGERS when met in ASSEMBLIES, had no “CHURCH-POWER” OR AUTHORITY WHATEVER; their act in adopting a *cfsn.* in 1689, “WAS THEIRS ONLY, and not that of their respective *chs.*....There is NO RECORD that [that *cfsn.*] was ever adopted by ANY ACT OF THIS CH....It was neither a LAW to the churches, nor a representation of EVERY THING which some of those *chs.* deemed NECESSARY to *cmñ.*” Reference must be made to “THE ACTS OF EACH INDIVIDUAL CH. IN ORDER TO SHOW WHAT IT HELD AND PRACTISED.”—*Proof*, 1. Art. 9, in ch. bk.: “a particular *cgñ.*”—2. This ch. would not, in 1714, receive members from that at Pulham unless they *agreed with itself*. 3. Mr. Bampffield’s church insisted on THE OBSERVANCE OF THE JEWISH SABBATH: Wall, p. 446; Wilson, II. 585, 608.—4. The churches of Mr. Benjamin and Mr. Elias Keach held that “LAYING ON OF HANDS UPON BAPTIZED BELIEVERS ...ought to be submitted unto by all such persons that [as] are admitted to partake of the L’s. Spr. :” Art. 23, 1697, in Exbt. 50; and Int., p. xiv. of Exbt. VI.—5. There were also differences as to SINGING IN PUBLIC WORSHIP: Ivimey I. 520.—6. The preliminary rules 1, 2, 4, of Assembly of 1689 disowned all “power,” limited its action to “counsel and advice,” and said that no decision by it was “binding” on any church unless its members should “conclude the same among themselves :” Ivimey I. 489, 490.—7. The messengers of 1689, and *not their chs.*, owned the Cfsn.—8. Secs. 7 and 15, of chap. 26, of Cfsn. of 1689, deny that messengers so met, have “any ch. power.”—9. The SAVOR CFSN. of the Independents denies it also: Price II. 621, 622.—10. The messengers of 1691 said to their churches, “we can impose nothing upon you :” Ivimey I. 511, 512.—11. The Association Letter on Independence, Rippon, p. 37, speaks to the same effect.—12. B. Keach’s ch. sent messengers to the Assembly of 1689, (Iv. I. 508) and joined in its *cfsn.*, [though in this there was “something material wanting....something lacking according to [its] faith and practice, respecting imposition of hands ...singing of God’s praises,” &c. :] E. Keach, Exbt. 50, p. viii.; [Exbt. vi., p. xiv.]—*Ref. Bill* 9, and *answers* thereto.

9. "CHURCH GOVERNMENT AND DISCIPLINE, in this cgn. [were what is] called CONGREGATIONAL." THE MEMBERS, in ch-meeting, and not the ch.-officers, had "the power of receiving to, and excluding from ch.-cmn." They were "the ADMINISTRATIVE body to carry out the FUNDAMENTAL AND INVIOABLE RULES AND LAWS OF THIS CH.;" they "were BOUND by its rules....to ADMONISH and CENSURE those who adopted and countenanced...false doctrine and worship; and, if these means were without effect, to EXPEL SUCH MEMBERS FROM IT." Another use of the term "Congregational" was to denote "CERTAIN CHURCHES," called also Independent churches, and which admitted to membership both Pædobaptists and Baptists; Crosby III. 44, 45; Edwards, p. 14. "A Pr. Bpt. church was not a Congregational church, though it had a congregational form of ch. government."—*Proof* 1. As to what is congregational *govt.*; Hanbury I. title, and p. 292, as to its being deemed "unchangeable by men everywhere and for ever," pp. 227, 228, 302.—2. Govt. of *this ch.*; its 9th art. says, "unto *this ch.*" of baptized believers, &c.: and "WE MAY NOT ALTER ANYTHING."—3. In the original CH.-COVENANT, the members agreed to "keep [themselves] from all corruptions and pollutions in the worship of God."—4. Two minutes in ch. bks., dated Feb. 1, and March 29, 1753, declared it "unlawful for any so to attend upon the meetings of the Methodists, or to join in any worship which is contrary to the doctrines and ordinances of our Lord Jesus, as that, without partiality, it may be construed to be giving countenance to them."—5. On July 17 of the same year, 1753, the church admonished Mr. Keymer, among other things, for encouraging "false doctrine:" [and on Aug. 30, 1753, "separated him from the body." ]—6. As to *admission* of members: minute of May 30, 1714, as to Pulham members; and of Sept. 13, 1765, as to "Mary Beard."—7. As to *exclusion*, "various minutes."—*Ref.* Bill, 8, and Ansns. thereto. As to Congregational chs., Gould, Ans. I. 17; p. 53, col. 2, preceding.

10. This cgn. "DID ACTUALLY EXCLUDE from itself members who fell away FROM THE ORDINANCES AND DOCTRINES herein set forth as those held by it."—*Proof.* Minutes of exclusion; 1. March 4, 1715-6, of THOMAS LAMKIN "particularly [for] his pleading for infants' baptism."—2. Jan. 6, 1722-3, of ANTHONY WRIGHT, for holding "erroneous

opinions."—3. Dec. 6, 1724, of SARAH TAYLOR, who had joined this church "disowning general redemption," for going to the Gl. Bpt. minister "again."—4. July 30, 1747, of JONATHAN WATTS, for crimes increased by desire to charge "the doctrine of the saints' final perseverance with them,"—5. Aug. 30, 1753, of Mr. KEYMER, partly, for "encouraging false doctrine," as before said.—6. Jan. 4, 1778, of SIX PERSONS for bringing charges against this ch. "with respect to sentiment and church discipline."—7. Aug. 29, 1782, of Mrs. SEXTON, in part for "declaring herself more happy in hearing the Newtonian doctrine than" that of this ch.—*Ref.* Bill 8, 15, and Ansns. thereto.

#### 11—14. BAPTISM.

11. With this cgn. it has been "TOTAL IMMERSION...All Baptists were" agreed in "1746, as they are now, that as to mode nothing is baptism but immersion."—*Proof* 1. Cfsn. 1689, chap. 29, sec. 4. 2. The Baptist Catechism, Ans. 100: Exbt. VI. p. 267; also p. xv. and Iveyne I. 533, 535.—3. Mr. T. Crosby, IV. 165.—4. Robt. Hall in "Terms of Cmn.," p. 9.—*Ref.* Bill 3, and Ansns.

12. "This cgn....held, in common with all Baptists, that such baptism ought to be administered TO THOSE ONLY WHO HAVE PREVIOUSLY GIVEN SATISFACTORY PROOF OF REPENTANCE...AND FAITH,... AND SUCH PERSONS... ONLY WERE DEEMED BAPTIZED PERSONS."—*Proof* 1. Art. 10, in first ch. bk. says it should "be administered to none but believers."—2. Members added to this church are described, for example, a little after the dates of Nov. 13, 1729. and July 1767, as baptized "after the profession of," and "on a confession of, their faith."—*Ref.* Bill 3.

13. "The... FAITH,...deemed by this cgn... pre-requisite to baptism, was not merely assent to certain doctrines, but, in addition,...ACTUAL TRUST in Christ, wrought specially by God," and which Pr. Bpts., because they believe it "to have promise of certain salvation, sometimes call 'saving faith.'"—*Proof* 1. Art. 4, in first ch. bk. says of those "whom God calls, so that they believe, .... they shall never perish."—2. Chap. 14 of Cfsn. of 1689, is entitled, "Of saving faith;" and secs. 1 and 3, speak of true faith as a saving grace, as the work of the Spirit, and as increased by means of "the administration of baptism."

14. This cgn. "required SATISFACTORY PROOF [of] repentance and faith."—*Proof.* Minute as to A. Wright, Jan. 6, 1722-3;

E. Jervis, May 3, 1724; B. Hardingham, Dec. 21, 1743; J. Burrell, Dec., 1748; and Mary Beard, Aug. 8, 1765, stating that she "related her experience before the ch.," and that it agreed "there was a work of grace."

#### 15—22. COMMUNION.

*None but Baptists were received by this cgn. to membership or the L's Spr.*

15. This cgn., in and after 1746, was "WHOLLY COMPOSED OF BAPTISTS, that is, of persons...immersed," &c.—*Proof.* It often called itself a "BAPTIZED CH." Did so in first list of members; in that following Jan. 6, 1722-3; in that of May 6, 1779, at p. 18, bk. II.; also in minute of Nov. 14, 1836; and in letter of June 26, 1837, *Exbt. K. 13.*—*Ref. Bill,* phs. 4, 5, 6, 10, 12, 14.

16. The term "BAPTIZED CHS." in, before, and after 1746, denoted "chs. COMPOSED WHOLLY OF BPTS., and HOLDING CMN. WITH NONE BUT BPTS.; and was used even by open cmn. Baptists, to DISTINGUISH SUCH CHS. from open cmn. and other chs.—*Proof 1.* T. Grantham, a Gl. Bpt., said, about 1678, that the "baptized chs." both Gl. and Pr., maintained such "separation." Book III. pp. 33, 34; Bk. IV. pp. 171, 173, 175, 177. In vindicating them, he said "none unbaptized may be admitted to the table of the Lord, and consequently not to ch.-cmn., of which that is a special part." Bk. IV. 178. 2. Mr. J. BUNYAN in 1672 and 1673, spoke of his open cmn. sentiments as "singular;" II. 618, col. 1; 642, col. 1; and of separation in membership and the L's Spr., as maintained by all whom he called "the brethren of the baptized way." II. 613, col. 2; 616, col. 2, bottom; 628, col. 1. He called denominational names, such as "Anabaptists" [i.e. Baptists], "factious" titles. 3. Mr. JOHN BROWN, quoted by Mr. W. Buttfeld, in 1778, condemned the "baptized chs." for making immersion "essentially necessary for constituting a true ch.," and "refusing fellowship with all who do not practise immersion." Buttfeld's "Free Cm. an Innovation." *Exbt. K. 2*, pp. 39, 41.—*Ref. Bill*, 4, 5, 7.

17. At said times, "this ch. DECLINED to" ADMIT TO CHURCH-CMN. persons "who were NOT BAPTISTS, OR WHO EVEN COUNTEANENCED WHAT WAS CONTRARY TO BAPTIST SENTIMENTS."—*Proof 1.* Minute of Sept. 22, 1689, excluding J. and M. WATLING partly for "assembling... among the...Quakers;" that of May 30, 1714, making agreement in "worship,"

(which included baptism), a term of cmn.; the exclusion, on March 4, 1715-6 of T. LAMKIN, partly for pleading for infants' baptism; also, on Aug. 30, 1753, of Mr. KEYMER partly for "encouraging false doctrine;" and on Oct. 2, 1760, of Mrs. SIMSON in part for "going frequently to false worship."—2. The min. of Aug. 8, 1765, as to Mary Beard, speaks of her baptism as constituting part of her fitness to "be taken in."—3. W. N. has "met with NO EVIDENCE" in ch. bks or elsewhere, to the contrary.—4. Min. 7, of June 23, 1847 says that both Mr. BROCK AND THE CH. ADMITTED that it had "ALWAYS" practised "STRICT CMN."—*Ref. Bill*, phs. 10, 14, 15.

18. In, before, and after 1746, this cgn. "held the LORD'S SUPPER to be WHOLLY AND EXCLUSIVELY A CH.-ORDINANCE;... A PART OF... AND PECULIAR TO CH.-CMN.... Its rules of fitness for" membership and the L's Spr. were the same.—*Proof 1.* Art. 10. in first ch. bk. says that Christ "delivered the L's Spr. to the church," defused by art. 10, to consist of "baptized believers."—2. Min. of May 3, 1724, speaks of the L's Spr. as "the ordinance of Christ in the church."—3. Cfsn. of 1689, chap. 30, sec. 1, says, it was "instituted by Christ to be observed in his chs."—*Ref. Bill*, ph. 15.

19. "SINGING, PRAYER, AND PREACHING.... WERE NOT... PECULIAR TO THIS CH. IN ITS CH. CAPACITY;" and, in this respect they "DIFFERED FROM THE L'S SPR."—*Proof 1. Singing:* this ch. called it an "ordinance," but it was observed "every L's day," in public worship; minutes of Jan. 4, 1749-50, and Feb. 1, 1753: the L's Spr. was observed once a month; Min. of Sept. 5, 1773. Persons excluded from "the L's Spr. might still... join in the singing" at public worship. 2. *Preaching and prayer:* Mr. A. Booth in 1778, p. 116, said, "preaching is not confined to persons in a ch. state,... but the L's Spr. is a ch. ordinance," &c. At p. 120, he said the same of prayer. 3. Mr. Kinghorn in "Baptism a Term," pp. 174, 175, said "prayer and praise are not exclusively ordinances of the Christian church," as the L's Spr. is, p. 173. 4. Mr. Wheeler, at Mr. GOULD'S ORDINATION, noticed the fact that the promiscuous assembly is excluded from the L's Spr., but joins in the singing of hymns: *Exbt. K. 29*, pp. 7, 8.—*Ref. Bill*, 10.

20. This cgn. applied the term "COMMUNION... TO THE FULL CMN. OF MEMBERSHIP," and to the L's Spr. as "ONE PART OF CH.-CMN."—*Proof.* Minutes dated

Oct. 1, 1693; Sept. 22, 1698; June 3, 1703; Oct. 27, and Dec. 1, 1717; Nov. 1718; May 3, 1724; Aug. 16, 1724, and several others.—*Ref. Bill*, ph. 10.

21. The two rules, 1st, that THE L'S. SPR. IS "PECULIAR TO CH.-CMN.," and 2nd, that baptism is PRE-REQUISITE TO WHATEVER IS SO, were deemed by this ch. to be "FUNDAMENTAL AND ESSENTIAL TO ITS CONSTITUTION AS A CH. OF CHRIST;" and to be "LAWS ABSOLUTE, INVIOLEABLE, AND UNCHANGEABLE."—

*Proof* 1. The words "baptized believers," in art. 9, in ch. bk.; as to baptism being necessary to ch.-membership. 2. The words in art. 10, "delivered to the ch.," and "by which we show forth his death till he come;" as to the permanent observance of the L's. Spr. by the ch. exclusively. 3. The words "we may not alter anything;" &c., art. 9. 4.

*Unlawfulness* of countenancing false worship: minutes Feb. 1, and March 29, 1753, (see above, ph. 17.) 5. Minutes already quoted in phs. 18, 19. 6. Dr. WALL said: "Many of 'em hold it necessary to renounce cmn. with all Christians that are not of their way," p. 431; also p. 560. 7. Mr. KINGHORN spoke of baptism "as one of the essentials of," and of the admission of unbaptized persons to the L's. Spr. as "a change in the constitution of a Christian ch.:" Baptism, pp. 28, 162, 163, 167; and 4, 9, 58, 68.—*Ref. Bill*, ph. 10.

22. This cgn. had UNIFORMLY "held and maintained....the necessity of baptism to ch. cmn. in the L's. Spr., and in full ch.-membership," till the innovations began.—*Proof* 1. In continuation of phs. 15—17. 1. Still called a "baptized ch." in 1779, ch. bk. II. p. 18; in 1804, Kinghorn's Life, p. 307; in 1836 and 1837, ch. bk. Nov. 14, 1836, and Letter of June, 26, 1837, *Ex. K.* 13. 2. In 1836 it did not recognize a mixed ch. at Langham to be a baptized ch.: ch. bk. Nov. 14, 1836. 3. Its books contain no record of open cmn. 4. Some agitation merely in its favour was expected in 1794: Kinghorn's Life, pp. 236, 238. 5. Concessions were made by all the defts. except Gould and Allen, Aug. 1845, and by Mr. Brock and this ch. June 28, 1847, that it had "always" declined cmn. with persons not baptized. 6. Deft. James Cozens, the elder, one of those who did so, became a member in 1804, at which time he could probably ascertain from persons then alive, that the ch. had been strict at least as far back as 1746. 7. At Mr. Gould's ordination, in 1849, the ch. was said to have been so "for many

years:" Ordination Services, p. 21, of *Ex. K.* 29.—*Ref. Bill*, 5, 7.

23. MERE OPINIONS in favour of open cmn. were compatible with membership in this church, so long as the members PRACTISED STRICT CMN.—*Proof*. Mr. Kinghorn said that any endeavour to alter its rules of cmn., would, if successful, expel the members who adhered to strict cmn.; would "rob [them] of [their] privileges and [their] property;" would be "disingenuous;" and he asked "how will it look at the bar of Jesus Christ?" But he said that the ch. was not bound to exclude members on account of "speculations" or "private opinions" in favour of open cmn.—*Proof*. "Baptism a Term," p. 173; "Arguments," &c, 1827, pp. 51—54. *Ref. Bill*, 5, 7.

#### 24—27. PARTICULAR REDEMPTION.

24. "PARTICULAR," in the Deed of 1746, "referred to the doctrine of PARTICULAR REDEMPTION, and denoted that this cgn. was WHOLLY COMPOSED OF PERSONS WHO...PROFESSED TO HOLD [IT]." — *Proof* 1. Dr. WALL, A. D. 1707, p. 447, said, those of the Antipædobaptists who are "Calvinists, they call the Particular men, as holding a particular and absolute redemption of some particular persons." — 2. Mr. T. Crosby, 1738, Hist. I. 173, to the like effect. He said also that the Gl. and Pr. Bpts. in England, had, from "the beginning of the Reformation," formed "DISTINCT COMMUNITIES." 3. Definition of Pr. Bpts. in the original rules of the "Baptist Fund," founded 1717: *Exht. K.* 3.

25. "The doctrine of PARTICULAR REDEMPTION, AS DEFINED...by Dr. JOHN OWEN, an Independent, by Dr. JOHN GILL, and Mr. JOHN BRINE, Baptists;" three of "its most distinguished advocates from 1650 to 1750," and by the CFSN. of 1689, was this,—"that CHRIST DIED TO REDEEM, PURCHASE, OR RANSOM, PARTICULAR PERSONS, viz., the elect, and that he SECURED ABSOLUTELY THEIR SALVATION, AND THEIRS ONLY, BY BEARING ON THE CROSS THEIR SINS, as their Representative, Head, or Substitute; and it expressly LIMITED REDN. to those who are CHOSEN by God through Christ to salvation." The purchase or ransom was supposed by the advocates of GL. RN. to render the salvation of ALL POSSIBLE; by the advocates of PR. REDN. to render the salvation of PARTICULAR, CHOSEN PERSONS CERTAIN. "The abstract question whether there was a sufficiency of

worth and value in the blood of Christ to have saved more than the elect, if" he had been "the representative of more, and his blood a ransom for more than the elect, did not affect the doctrine of Pr. Redn., which merely related to the redn. which God has actually accomplished by Christ's death, as a price paid for, and which, by its sufficiency for that end, did secure the salvation of the elect."—*Proof*

1. Dr. OWEN called this doctrine "Particular Effectual Redn.:" Death of Death, Bk. IV. chap. 7, secs. 8 and 13; Works by Gould, x. 410, 414: "Christ died for the elect only. All those for whom Christ died are certainly saved." Also pp. 415—419. 2. Dr. GILL 1735—1738, "Cause of God," edn. of 1814, I. 307, 311, to like effect. 3. Mr. BRINE also, in 1746, "Vindication," pp. 267, 268, 288, to like effect. He held too that "uniformity of sentiments in relation to Christian doctrines, is necessary to Christian cmn.," in opposition to Dr. James Foster, a Baptist and an advocate of free cmn., who held that *Arminians, Calvinists, Baxterians, Socinians, and others, should unite in ch.-fellowship*: pp. 100—102. Mr. Brine was a man "of great weight in the denomination." Ivimey III. 367. 4. The CFSN. OF THE ASSEMBLY of 1689, at which two members of this ch. were present, agrees with the above definitions: chap. III. sec. 6; chap. VIII. secs. 1, 5, 6, 8; chap. XI. sec. 3.

26. "This cgn. ACTUALLY HELD [this] doctrine, in, before, and after 1746."—*Proof* 1. Its articles: art. 1, the words: "It pleased God...to reveal a way...for the redemption and salvation of a certain number of mankind by Jesus Christ;" and other words of like import. Art. 2. "The new" is "an absolute unconditional covenant, being made with Christ our Head," &c. Also arts. 3, 4, 5. 2. The exclusion of SARAH TAYLOR, Dec. 6, 1724, on account of *gl. redn.*, as before mentioned. 3. Minute of Feb. 1, 1753, stating that it is "unlawful...to attend upon the meetings of the Methodists," so as to "countenance doctrines contrary" to those of Christ. 4. By the original *ch.-covenant* the first members expressly, and those who were afterwards added to the ch. so constituted, did at least by implication, agree to maintain its doctrines. By secs. 3 and 4, of that covenant, the members pledged themselves to "bear a faithful testimony to," and "edify one another in," them. References to a like kind of covenant, engagement, or promise, made by other members on admission, occur Aug. 30,

1759; ch. bk. II. p. 25; Oct. 28, 1785, and Feb. 1, 1786; also in Keach's "Glory," pp. 5, 7, 40, 41. 5. This ch. required, May 30, 1714, that the Pulham members should agree with it in doctrine; and received from Mr. Burgoyne, on his admission some time before 1782, "the most cordial approbation of [its] doctrine." ch. bk., Aug. 29, 1782.—*Ref.* Bill, 1, 3, 4.

27. This ch. "has UNIFORMLY PRO-FESSED" the said doctrine from 1746 to the time of the innovations.—*Proof* 1. This ch. was inserted, A.D. 1790, in a list of Pr. Bpt. chs.: Rippon, *Exbt.* 13. 2. April 14, 1789: its members were said to be "unanimous in [doctrinal] sentiment;" and Mr. Kn. agreed with them in this respect "pretty well." Life, pp. 142, 143. On May 20, 1790, Mr. Kn. spoke of Christ's "death for the sins of his people." pp. 173, 176; in 1811, said of the "views of truth" in the original articles of the ch. "we cannot improve" on them: p. 157, top. 3. Various letters from Pr. Bpt. chs. addressed this as a Pr. Bpt. ch., from 1809 to 1823: *Exbt.* K. 18. 4. Mr. Kinghorn on May 11, 1826, said that "the atonement made" by Christ, though "in point of power, [it] would have saved more, had more been included in the plan," yet "in point of design...was made for those who were given him." 5. Parts of hymns by Dr. Watts, and in the collection of Ash and Evans, cited, which express this doctrine. 6. Mr. Kinghorn in his "Arguments," p. 14, 1827, said that Mr. Hall's system had "many faiths, and no baptism," instead of "one faith and one baptism."

## 28, 29. "CONGREGATION OF PARTICULAR BAPTISTS.

28. This and similar expressions were "CUSTOMARILY USED to denote a body LIMITING CHURCH-COMMUNION to Pr. BPTS." *Proof* 1. Rules of Baptist Fund in 1717. *Exbt.* K. 3. 2. The trust-deed of the Baptist Chapel in Keppel-street, Middlesex, dated June 7, 1796, described that strict ch. as one of "Protestant Dissenters called Pr. or Calvinistical Bpts." 3. The Deed of Zion Chapel, Chatham, dated Aug. 19, 1785, describes that ch. as "a society or cgn. of Pr. or Calvinistic Bpts." 4. The MODEL DEED of the "BAPTIST BUILDING FUND," (founded 1824), in the case of a ch. limiting cmn. to Pr. Bpts., recommends the use, in a trust-deed, of the words—"the society of Protestant Dissenters called Particular or Calvinistic Bpts." *Ref.* p. 25; but a note at p. 26, says that "where it is de-



sired that *unbaptized persons* shall be admitted to *cmn. and membership*, or *either of them, a clause should be introduced to that effect* ; and that "it will be necessary...that the clause...*clearly express the intention*." 5. The MODEL DEED recommended by the BAPTIST UNION in 1849, whose secretaries Dr. Steane and Mr. Hinton "are known [to W. N.] to be most active in promoting...*free cmn.*," recommends that deeds for what are there called "Baptist meeting-houses" should put them in trust for "*the Society of Protestant Dissenters now meeting for Divine worship therein*," thus permitting the reception of "*persons of all descriptions*, provided they are dissenters;" a form which is "suitable for chs. admitting *believers of all denominations*, according to the principles of *free cmn.*"—*Ref. Bill*, 1.

29. The words "for Congregational Protestant Dissenters of the denomination of *Baptists*," were deemed in 1808, sufficient to secure the Baptist chapel, in Little Alie-street, London, to a ch. limiting membership and *cmn.*, to BAPTISTS. The trust-deed is Exbt. K. 4.—*Ref. Bill*, 1.

30—39. *The trust-deed compared with the principle and practice of free-cmn.*

30. "The innovations... are *FOUNDED ON THE PRINCIPLE...OF OPEN, FREE, OR MIXED CMN.*"—*Proof*. 1. Mr. Brock's printed letter of 1845, *Exbt. K. 1*.—2. Minutes in ch. bk. of Jan. 29, 1849; June 29, and July 13, 1857. 3. Deft. Tilliard's pamphlet, 1857, p. 16. *Exbt. K. 30*.

31. "OPEN CMN. HAS NO RELATION TO ONE CLASS OF TRUE BELIEVERS MORE THAN TO ANOTHER." It is "a mere circumstance, and not a result arising from the principle itself, if most of" its advocates are Baptists; or "if in a church adopting it there are more Baptists than *Pædobaptists*;" Congregationalists than *Episcopalians* or *Presbyterians*, &c. The constitution of such a ch. is NOT ALTERED IF IT HAS NOT ONE PR. BPT. IN IT. *Proof*. 1. The nature of the principle itself. 2. R. Hall, "Terms," pp. iv., v., 10; defines it to be that nothing is a "condition of *cmn.*" which is "not enjoined as a condition of salvation," says that the case between Baptists and *Pædobaptists* is only the application of this principle to a particular instance, and that the controversy involves topics "in which the Christian world are not less interested than the Baptists." 3. A pamphlet entitled "The *Cmn. of Saints*," 1857, *Exbt. K. 31*, p. 27, says, that the

"inevitable logical result of open *cmn.*" is, that "*all diversities of belief and practice compatible with the mutual acknowledgment of each other's Christianity must worship in one assembly*" or "church."—*Ref. Bill*, 10.

32. "A ch. regulated upon the principle of *FREE-CMN.*, is *ESSENTIALLY DIFFERENT FROM A 'CGN. OF PR. BPTS.'*"—*Proof*. 1. The advocates of *free cmn.* differ "as to what is *fundamental to salvation*." A. Booth says that FAUSTUS SOCINUS, from whom Socinianism takes its name, was its *first advocate*, Apology, p. 24, note, and p. 83. Some *free-cmn.* Bpts. have been Socinians: but other *free-cmn.* Bpts. do not recognize their chs. as "chs. of Christ," Booth, p. 25, note 1. 2. Its CHIEF ADVOCATES IN ENGLAND have been, in cent. 17, Tombes, Jessey, Bunyan: in cent. 18, Foster, Ryland, Turner, Brown, and Robinson: in cent. 19, R. Hall. Of these, Mr. HALL avowedly held *general redn.*, Life, p. 160. Mr. ROBINSON, was in "the latter part of his career" a Socinian. Dr. FOSTER advocated *cmn.* with *Arians*, *Pelagians*, *Socinians*, &c.: Brine, p. 101. Mr. BUNYAN had in his ch. those who *denied the obligation of baptism altogether* (Offer's P. Progress, Int., p. lxii.); and he was willing to receive even *Roman Catholics*, if he deemed them to be saints: Works, II. 615, col. 2, top. Mr. JOHN RYLAND and Mr. DANIEL TURNER advocated the admission of "*believers of all denominations*," (Booth, pp. 41, 42; and 131, 56) and Mr. Booth speaks of them as *acting on this principle* in respect of *full membership*, pp. 143, 144. Mr. BROWN advocated *mixed membership*: Buttfield's Reply, *Exbt. K. 2*, pp. 5, 7, 22. 3. The resolution of members of *this ch.* on March 11, 1857 (see p. 16 preceding) "that *Christians are bound to receive one another as believers*," requires the reception of unbaptized believers, "*to all privileges which...belong to any Christian*."—*Ref. ph. 28*, and *Bill 10*.

33. *Free cmn.* "INVOLVES THE EXTINCTION OF ALL...SECTS," and the destruction of every thing "DISTINCTIVE [as to] DOCTRINE, RITES, and CHURCH GOVERNMENT." The "FEW *FREE-CMN.* CHS. WHICH EXISTED IN 1746, DID ALL, so far as [W. N. knows] admit [unbaptized] believers, not merely to the L's Spr., but to FULL CHURCH CMN;" and "THE ABOVE...ADVOCATES OF *FREE-CMN.* assert or imply, that [this practice] is an ABSOLUTE DUTY, MADE INCUMBENT BY...CHRIST;" and one "NOT LEFT OPEN

TO HUMAN DISCRETION."—*Proof.* 1. Mr. JOHN TOMBES, who, though a Baptist, remained a member of the *Ch. of England*, and was so even after the Restoration of Charles II.; objected to separation for differences "even on *clear truths*," if not "*fundamental*," Wall, p. 554; Crosby I. 285—294. 2. Mr. HENRY JESSEY, 1645, received the unbaptized to full membership, Crosby I. 312; and said "there is a *command*" to do so; Bunyan's Works, II. p. 642, col. 2; 643, col. 1; 645, col. 2. 3. Mr. JOHN BUNYAN, 1672, did so too, and said that "we are *strictly commanded* to hold cmn. with" them; also that "the L's. Spr. is for *the ch., as a ch.*:" Works, II. p. 610, col. 1; 630, col. 1. 4. Dr. JAMES FOSTER was in doctrine a Socinian; and held that Arians, Socinians, Calvinists, &c., baptized and unbaptized, "*ought to unite in Christian fellowship*:" Brine, pp. 100, 101; Robinson's Works, III. 145. 5. Mr. ROBT. ROBINSON continued after he became a Socinian, pastor of the mixed cmn. ch. at Cambridge: Ivimey IV. 52, 456, 457. He received to *full membership* all who "held inviolably the perfection of Scripture:" Ivimey, IV. p. 52. In his treatise on "Toleration," 1781, speaking of the "*express laws of ch. fellowship*" given by God, he said that the L's. Spr. is a "*ch. duty*," and that "a supreme love to truth and virtue," is "all-sufficient for the duties...of ch. cmn.;" Works III. 162, 181, 177. He names Jessey, Bunyan, Foster, Bulkley, Turner, Ryland, and Brown, as chief advocates of free cmn., before that time; pp. 142—145. 6. Mr. J. RYLAND and Mr. D. TURNER pleaded Rom. xiv. 1, 3, &c. as *commanding* free cmn.; and Mr. Booth spoke of them as pleading for and practising *mixed membership*: Apology, pp. 78, 143, 144. 7. Mr. BROWN; see ph. 32. 8. Mr. ROBT. HALL advocated *mixed membership* as a *command* of God; Terms, 96, 116; Short Statement, p. 46.—*Ref.* Bill, 10.

34. STRICT CMN. was, in 1746, the practice of "THE WHOLE CHRISTIAN WORLD:"—of the English "NATIONAL CH." of "ALL PÆDOBAPTIST CHS. IN THESE KINGDOMS [and] UPON EARTH," and of ALL "INDIVIDUAL BAPTISTS, [except a] FEW:"—*Proof.* I. Booth's Apology, pp. 13, 14, 24—27. 2. "Some of the few free-cmn. churches" of the 17th cent. had *ceased either to be, or to be such*, Jessey's had been long extinct, Wilson I. 50; and Broadmead, Bristol, had been strict from 1733. [Part of its previous history is unknown.]. Fuller's Dissent, pp. 185, 186. 3. Mr. Bunyan's church

had then a *Pædobaptist pastor*, and from 1688 to 1772; Kinghorn's Defence, pref. xv.; Iv. II. 45. The chs. founded by Mr. Vavasor Powell, in Wales, had *declined*, and the strict chs. there had *greatly increased*; Dr. Richards, pp. 182, 183.

35. The name of "STRICT BAPTISTS..." WAS FIRST GIVEN ABOUT 1772,...by some of the FEW" free-cmn. Bpts. then existing, and "about 26 years after the founding of this trust."—*Proof.* Booth, pp. 138, 140; Ivimey IV. 35.—*Ref.* Bill, 10.

36. Those who were called STRICT BAPTISTS in 1772, "REQUIRED AS TERMS OF CH. CMN., not only general evidence" of saving faith, but "as a further divinely imposed test of [a] person's state.....ASSENT to the DOCTRINES," AND SUBMISSION TO "THE RITES,...CH. GOVERNMENT, AND ...PRECEPTS which in [their] judgment were *clearly* revealed and enjoined by God." The term STRICT, in its *broadest meaning*, denoted all these points of difference between their chs. and "chs. composed of all classes of believers;" but from the mere circumstance that free-cmn. has been chiefly practised by those who differ little except as to baptism, it is often used to denote merely "THE NON ADMISSION TO CMN. of persons deemed by Baptists unbaptized."—*Proof.* 1. Mr. Booth said in his Defence of the Strict Bpts., "it is not every one" of whose *salvation they have hope*, "who is entitled to cmn. at [Christ's] table, but such, and only such, as reverse his authority, submit to his *ordinances*, and *obey the laws of his house*;" Apology, pp. 80, 117. Also that these rules of cmn. are not "discretionary," but "fixed by" Christ, 23, 24. 2. Dr. T. F. Curtis, p. 166, says, when defending *strict cmn.*, "According to [Mr. Hall's] theory no one of our chs. could be *distinctively Calvinistic*, unless we were prepared to say that *Arminianism necessarily excludes* men from being of the number *Christ has received*."—*Ref.* Bill 10.

37. "THE BAPTISTS," or a like term, was in, and before 1746, and afterwards, used as the "PROPER AND DISTINCTIVE NAME" of those who "about 1772 were first called STRICT BAPTISTS." "ALMOST ALL the baptized believers in England," in 1746, were of that class.—*Proof.* 1. In 1673, Mr. BUNYAN called such Baptists "*The Baptists*," Works II. 616, Title; and also "the brethren of the baptized way," 616, col. 2, 633, col. 1. He called his own chapel "*Congregational*;" Ofor's P. Prog., Int. pp. 61, 62. 2. Dr. WALL, 1707, called them "*the Antipædobaptists*," p. 560. 3. Dr.

GALE, 1705, did so also, pp. 63, 67. 4. Mr. DANIEL NEAL, 1731—1738, called such Baptists "*the Anabaptists*," II. 278, 280. 5. Mr. T. CROSBY, 1740, called them "*the Baptists*," Hist. III. 44. 6. Mr. BOOTH entitled his Defence of their practice "An Apology for the Baptists;" and Mr. R. HALL in Reply to K. in 1818, pref. p. 12, said that the reason for his doing so was that strict cmn. "had gained so firm a footing previously to Mr. Booth's writing." Also that "the few churches who ventured to depart from the established usage, were very equivocally acknowledged to belong to the general body." Mr. B. in his Apology, said that free-cmn. Baptists were neither "consistent Baptists" nor "Pædobaptists," but "a heterogeneous mixture of both," p. 146; also 19, 30. 7. Mr. Kinghorn in his pamphlet "An Address," Exbt. K. 11, 1824, p. 33, called Strict Baptists "*the Baptists*."—Ref. Bill, 10.

38. "According to THE PRINCIPLES... ALWAYS HELD by those... now called STRICT BAPTISTS, the admission of unbaptized believers to cmn. with this ch., whether as full-members, or at the L's. Spr., NECESSARILY EXCLUDES ALL ITS MEMBERS WHO CONSISTENTLY ADHERE TO THOSE PRINCIPLES;" which make it a duty "IMPERATIVE UPON THEM, NEITHER TO COMMUNE WITH the unbaptized, nor BY THEIR ACTS AS CH. MEMBERS, TO SANCTION cmn. with them."—Proof. 1. Appendix to Cfsn. 1677, "We cannot hold ch.-cmn. with any other than baptized believers, and churches constituted of such;" Ex. VI. p. 244. 2. Bunyan said that his opponents made baptism "essential to ch.-cmn.," Works, II. 633, col. 1. 3. W. Kiffin, one of them, said "we dare not break this rule," &c. Ivimey, III. 315, 316. 4. Mr. Booth said, baptism is "*indispensably necessary*," p. 8; and that it is wrong to *connive* at the neglect of a divine rule; pp. 50, 53, 117, 137. 5. Mr. Kinghorn said that baptism is "one of the *essentials* of a Christian ch.;" Baptism, pp. 28, 162, 163, &c.: that without "*union with others in our obedience to Christ*," there is "no New Testament ch.;" pp. 94, 95. He repeatedly said that Strict Baptists are *expelled from membership* by the adoption of free cmn. by a ch. previously Strict; Baptism, p. 108. In "Arguments," 1827, he said that strict members would be "EXPULSED FROM [THEIR] HOME," and "ROBBED OF [THEIR] PRIVILEGES," by precisely such events as have occurred in this ch., and com-

pared such a course with that of the Socinianized Presbyterians who DROVE "AWAY" those who held the faith of their fathers, and kept possession of their property, pp. 51—54. Other remarks quoted from his Defence, 1820, pp. 129, 130, 186. 6. Mr. Brock, in his printed letter, when commencing the innovations in 1845, admitted that the strict members "could not consent to the admission of the unbaptized" to cmn. *with the ch.*, and would be thus compelled, "at the imperative dictate of conscience [to] go away." Exbt. K. 1. 7. The resolution of free-cmn. members of this ch. on March 30, 1857, proposing a *separate strict service*, admitted that the strict members could not commune "consentiously with unbaptized believers," and that they would, notwithstanding the separate service, be still *excluded from part of their right, as members, to meet with the ch. at all times.*—Ref. Bill, 10.

39. IT HAS BEEN ADMITTED THAT THIS CGN. "HAD ALWAYS BEEN A STRICT BAPTIST CH. prior to the time of the innovations," and that the members who have OPPOSED THEM ARE STRICT BAPTISTS.—Proof. 1. Min. 7 of June 28, 1847, states that the ch. acknowledged that it had *always been a strict ch.* 2. Mr. Brock, in printed letter of 1845, p. 2, Exbt. K. 1, spoke of the opposing members as "strict communionist" brethren. They are called strict in min. 1 of April 30, 1849; and in Mr. Gould's address to the ch. on June 29, 1859.

40—56. *Breaches of trust, trustees, &c.*

40. THE SERVICE INSTITUTED BY MR. BROCK IN 1845, "violated the right use of the building as defined by the *trust-deed*;" and also the *rules of the ch.* in four particulars: 1. "that the L's. Spr. is *exclusively a ch. ordinance*," (ph. 18 of this afft.); 2. that the ch. "has *sole right to admit to...ch. cmn.*" (ph. 9); 3. "that immersion after...faith is *absolutely pre-requisite* to ch. cmn." (ph. 21); and 4. that church members must "*walk together in all laws and ordinances*," &c. (art. 9.) THE PROTEST by 42 members. THE OPINION of Mr. Kindersley. THE MOTION of Mr. Spalding and Mr. Nash, March 30, 1846. THE PROTEST sent by W. Norton to pastor and members, after opinions given by Mr. Romilly and Mr. Bethell, 1847; EXCLUSION of T. Kelf and ten other members in 1846 and 1847. This service in 1849 was spoken of as one of "the ordinances of the ch." Ref. The

details are given in pp. 8—10, 12 and 14, preceding. Bill 17, 20; aftt. Moore and others.

41. RESOLUTION TO ADMIT E. BAYES AS A MEMBER; HER ADMISSION: this compelled the strict members to be absent from the L's. Spr. (ph. 38.)—*Ref.* Bill 19, 20.

42. A MORE PERMANENT BREACH OF TRUST: the res. of March 11, 1857, and the *actual admission* of unbaptized believers to *cmn. with this ch.* Mr. Tillyard's motion on March 30, 1857, as to the unbaptized who had attended Mr. Brock's service. The admission of two Presbyterians and an Independent in Dec. 1858, with the special approbation of Mr. Gould and Mr. Tillyard.—*Ref.* See pp. 16—19, preceding. Bill 19.

43. MISSIONARY COMMUNION; the admission of *members of Wesleyan societies*, as such; want of evidence that *all* such members are BELIEVERS in the Baptist sense: Mr. Gould as "the result of most solemn convictions" said on July 15, 1858, "I am COMMANDED to receive ANY MAN WHO PROFESSES TO BE A BELIEVER," &c. "I must not judge him."—*Ref.* See pp. 19, 45, preceding. Bill 20.

44. "DECLARATION signed in 1857...by 85 [strict] members was placed in [W. N.'s] hands." Exbt. K. 23.—*Ref.* See p. 28, preceding. Bill 20.

45. A "DECLARATION also signed at about the same time by 30 members,...favourable in their private opinions to free-cmn."—*Ref.* See p. 28 preceding. Bill 20.

46. OTHER BREACHES have occurred and been *protested* against.—*Ref.* Aftt. of Willis and others.

47. Defts. GOULD, COZENS, the elder, TILLYARD and FLETCHER, as appears in ch.-bk. min. 2...of March 1, and min. 14, of March 29, 1858, declared their "intention to take steps to SECURE THE ENTIRE EXCLUSION of those members whose absence from the L's. Spr. [had] been occasioned by the admission to it of persons" unbaptized.—*Ref.* See p. 48, preceding. Bill 24; and Ansrs. II. of said defts.

48, 49. THE DEFTS. WERE REQUESTED in April 1857 and March 1858, by W. N. as a trustee, but (except Mr. Gooderson) REFUSED, to cause these innovations to be discontinued.—*Ref.* See p. 19. Bill 20, 25; aftt. of Willis and Thouless; Exbt. K. 25.

50. LEAVE TO INSPECT THE CH. BOOKS in order to see if they justified the filing of a Bill in Chancery, was asked by deponent, and REFUSED by Mr.

Gould, and by a majority of the ch. July 13, 1857; nor could he "obtain *all* the information [he] required, until [he] examined the ch.-bks. by the authority of this Honourable Court."—*Ref.* See pp. 21, 30, 49, preceding. Bill 28.

51. ARBITRATION: communications on the subject were ineffectual; partly because leave to inspect the ch.-bks. "was refused" to W. N. and he had not such information as [he] needed; partly because Mr. G. and others refused "to put the case fully and fairly" for consideration; and refused "to correspond any further on the subject."—*Ref.* See pp. 30—48, preceding. Bill 22; mins. in ch.-bk., from June 29, 1857 to Feb. 1, 1858.

52. MR. WILKIN and MR. NORTON, had been recognized as trustees, by *this church, and the other trustees*. Proofs from ch.-bks., &c., &c.—*Ref.* Bill 23.

53. THE REGISTRAR-GENERAL'S CERTIFICATE adduced, proving that this place is registered as a place of worship.—*Ref.* Bill 27; Exbt. K. 28.

54. THE FOUR TRUST-DEEDS were seen by Mr. N. in the custody of Messrs. Patison and Wigg, deft. Gould's solicitors.

55. EXHIBITS REFERRED to in this aftt. (besides those marked K. 1 to K. 44, and M. 1 to M. 4), are books numbered from 1 to 52. There are also EXHIBITS of books and of packets of papers, NOT REFERRED to in this aftt., but "which it may be desirable to refer to for evidence," marked O. 1, to O. 17, and P. 1, to P. 4.

56. THIS SUIT JUSTIFIED. The various counsel appealed to by pl'tfs. were *unanimous* in their opinion as to a breach of trust; the advice given by the Charity Commissioners was acted upon, and the Memorial recommended by them to be made to the Attorney-General, resulted in this suit.—*Ref.* See pp. 9, 11, 40, 48, preceding. Exbt. M. 4.

*Aftt. II.: for pl'tfs. Second by W. NORTON. Disproof of statements by defts. Filed Nov. 8, 1859.*

1. BELIEVES that "IT IS NOT THE FACT that in 1646 there were IN LONDON ABOVE 46 CGNS. OF PR. BAPTISTS:" [Gould Ans. I, phs. 15, 64.]—*Proof.* 1. R. BAILLIE, in his "Anabaptism," ch. iii. said, "before [1644] *this sect* was said to be grown into no less than 46 chs. (A.), and that, as I take it, within and about London." 2. Dr. FEATLEY, to whose "Dippers Dipt," (p. x. in edn. 1647) the note (A) referred, said "the Anabaptists boast in secret of 47 chs." 3. Mr. D. NEAL in his "Puritans," 1731-2, II. 279, said "there were no

less than 47 cgn. in the country and *seven in London*," in 1644. 4. THE SEVEN CHURCHES, which issued the Cfsn. of 1644, spoke of themselves in their pref. as "the poor despised chs. of God in London," Exbt. VI. p. 12. 5. THE CFSN. OF 1652 was entitled that of "the several cgn. .... in London .... unjustly called Anabaptists." The preface has "only 14 names." 6. A note in Grantham's *Christianismus Primitivus*, Bk. III. p. 10, calls the London cfsn. the cfsn. "of those chs. in London which are... unjustly called Anabaptists." 7. The whole of the chs. in London, Middlesex, and Southwark, which sent messengers to the Pr. Bpt. Assembly of 1689, were only 11; to that of 1692, only 12. 8. The whole number in London about 150 years after 1644, that is, in 1790 (see list in Rippon), was only 15. 9. Mr. Ivimey, IV. pp. 13, 38, gives a list of ONLY 13 such chs. in the whole of London and Middlesex about 1750 or 1760. "The difference between 7... and above 46 such cgn. is great, and evidence that the latter number is incorrect is accessible to any one.... desirous of ascertaining whether" it is so or not.

2. Believes that "IT IS NOT THE FACT" that Mr. Spilsbery's cgn., FROM ITS FORMATION IN 1633, was "IN THE PRACTICE OF OPEN MEMBERSHIP," though it may have held that persons could *convent*, when unbaptized, to form a ch. and be baptized. [Gould Ans. I. pns. 20, 23, 26, 36, 56, and p. 54, preceding].—*Proof*. 1. It was one of the 7 chs. of the Cfsn. of 1646, in which it is declared, art. 33, that a ch. is "a company of visible saints, being *baptized*," &c.; and art. 39, that disciples "ought to be baptized, and *after* to partake of the L's Spr." 2. Mr. Cox, who joined in that Cfsn., said of *all* the 7 chs., in an Appendix issued that same year, "we do not admit any to the use of the Spr., nor communicate with any in [it] but disciples *baptized*." 3. THE PREFACE to Cfsn. of 1646 says that these churches were "one in faith... and cmn.;" and Mr. Gould admits that one of them, Mr. Kiffin's, was *strict*. 4. Mr. SPILSBURY joined in re-issuing an EPISTLE in 1652, which speaks of "the Scripture" as "nowhere approving any other churches,... but the true chs. of Jesus Christ, professing the faith of Christ, and being baptized in his name." Cfsn. 1652, original edn. Exbt. 51, pp. 1, 3, 18. 5. Mr. T. CROSBY speaks of Mr. Spilsbery's as the first of the "distinct societies" of Baptists, they having been till that time

"intermixed among other Protestant Dissenters." I. 147, 148. 6. Mr. IVIMEY, III. 314, says of Mr. Spilsbery's ch. "no evidence can be produced that [it] ever practised mixed cmn."

3. "IT IS NOT THE FACT that cgn. CONSISTING PARTLY OF PR. BPTS.," and partly of other professed believers, "HAVE ALWAYS CALLED THEMSELVES AND BEEN RECOGNIZED AS, CGNS. OF PR. BPTS., nor that in [them], BAPTISM HAS BEEN ADMINISTERED ALWAYS by immersion ONLY," and to those only who profess faith. [Gould, Ans. I. pns. 22, 30.] The *Episcopalian, Presbyterian, and other churches*, which have consisted partly of Baptists, have not called themselves, nor been called Particular Baptist churches. *Proof* 1. That the Episcopal church consisted partly of Baptists; J. Tombes was a member of it, Crosby I. 291. Dr. Wall said in 1707, pp. 429, 430, that at first Baptists "did not all of 'em proceed to separation from the Established Ch.," and that though they "all or almost all," did so afterwards, it was their *own act*. 2. The PRESBYTERIANS. Mr. Baxter tried to persuade Baptists *not to separate*, WALL, p. 554. 3. THE INDEPENDENT CHS. Mr. T. Edwards, in his *Gangraena*, 1646, p. 14, spoke of them as "admitting of, and continuing Anabaptists to be members." 4. Mr. JESSEY's ch. is spoken of by Mr. B. Hanbury, in his *Memorials of the Independents*, as the first formed *Independent* ch. He says that most of its members were "*firm* for infant baptism," I. 293, note c. Compare Crosby I. 311, 312; Ivimey II. 420. The editor of the Records of the Ch. at Hexham, (Exbt. O. 3, p. 348, note 1,) says that Mr. Jessey, "although pastor of a *Pædobaptist* ch., did not relinquish his office when his sentiments on baptism were changed, but continued for 25 years to minister to them." 5. Mr. BUNYAN's ch. was called in 1672, "Congregational," and not Baptist. (Offor's P. Prog., Int., p. 62). Mr. Offor, a friend of free cmn., says, "it could not fairly be called" Baptist, p. 62. Mr. Ivimey, in 1830, said that "it should never have been reckoned as of the Baptist denomination," iv. 13; he called such a ch. a "congregational ch." ii. 83, 84. 6. The ch. at BROADMEAD, BRISTOL, seems at first to have been composed wholly of *Pædobaptists*. It was called an INDEPENDENT CH. as to its denomination, after some of its members became Baptists; Records, pp. 41—47, and notes. 7. BAPTIST ADVOCATES OF MIXED MEMBERSHIP, have OBJECTED to the term BAPTIST or BAPTIZED as an IMPROPER

name *in itself*, and have admitted that mixed churches are not, according to the *strict meaning* of the term, BAPTIST CHURCHES. Mr. BUNYAN said: "As for those factious titles of Anabaptists, Independents, Presbyterians, or the like, I conclude that they came neither from Jerusalem nor Antioch, but rather from Hell and Babylon." Works II. p. 649, col. 1. Mr. BROWN, as quoted by Mr. Buttfield, in "Free Cmn. an Innovation," Exbt. K. 2, p. 41, said, "Your *adopting* that unscriptural *party* name and *distinction* of the baptized churches of Christ, and *refusing* fellowship, with all who do not practise the same," &c. Mr. R. HALL admitted that if mixed cmn. were to prevail, "the appellation of *Baptist* might be found not so properly applicable to churches as to individuals." Short Statement, p. 46. Dr. Jos. ANGUS said in 1846 (Primitive Ch. Mag., pp. 13, 14; Exbt. M. 5), of a mixed membership ch., "a Baptist ch. it is not. In a Baptist ch., baptism (as we understand the term) is essential to membership." Mr. JOSHUA THOMAS, in a Hist. of the Association in Wales from 1650 to 1790 (Rippon, Exbt. 13, p. 5), said that the chs. in Wales which consisted of "Pædobaptists and Baptists united together in a mixed cmn.," were not "*proper* Baptist chs.;" that the first *Baptist* ch. there, was formed at Ilston, and that Mr. John Myles, its pastor, "seems to have been the first Baptist minister in Wales who defended and maintained unmixed cmn. among the Baptists in the principality, in a public, open way."

4. Believes that "IT IS NOT A FACT" that those who have adopted the practice of open cmn, whether as to the L's. Spr. only, or as to full membership, have GENERALLY CONSIDERED IT OPEN TO MODIFICATION, according to the circumstances of any individual; NOR A FACT that those who have adopted it as to the L's. Spr., "have ALWAYS CONSIDERED [this practice] ENTIRELY DISTINCT from the practice of open membership." [Gould Ans. I. phs. 22, 30, 31, 32.]—*Proof*, ph. 33 of W. N.'s first afft.; appealed to as showing that the advocates of free cmn. have *generally maintained* that to receive all believers to full ch.-cmn. is "a duty made incumbent by the will of Christ, and that if in practice" they have received them to the L's. Spr. *only*, they have done so in *opposition* to their own arguments.

5. INACCURATE STATEMENTS AS TO MR. KIFFIN. [Gould Ans. I. phs. 20, 23, 25, 26, 28, 34].—*Proof*, that Mr. K.'s

ch. was formed before 1644; his signature to Pref. of Cfsn. of that date, as member of a ch. distinct from Mr. Spilsbery's. 2. That his ch. and Mr. Spilsbery's had the same rules of cmn.; ph. 2 of this afft., the words "One in cmn." 3. That *before* 1653, and as early as 1633, Pr. Baptists limited cmn. to Pr. Bpts.; Crosby III. 3, 4; Ivimey II. 297; III. 314, 315; Broadmead Records, p. 31, note 3.—*Ref.* ph. 2 of this afft., and p. 54 preceding.

6. It is NOT THE FACT that the question WHETHER the unbaptized should partake of the L's. Spr. with Pr. Bpts., "has been an OPEN QUESTION, EXPRESSLY RECOGNIZED as such, among Pr. Bpts.," [Gould, Ans. I. phs. 29—32, 35].—*Proof*. Phs. 33 and 38, in W. N.'s first afft., referred to as showing that *both strict and free communionists* have deemed the course they advocated, to be *made incumbent by the will of God, and not left open to the discretion and pleasure of men*.

7. Mr. J. TOMBES referred to the Cfsn. of 1644, not as proof that the Pr. Bpts. AS A BODY DID NOT REJECT OPEN CMN., but simply to show WHAT they held. (Gould Ans. I. ph. 61).—*Proof*. Extract from Tombes, in Wall, p. 554.

8. The London Cfsn. of 1646, does NOT COUNTENANCE the doctrine that "Christ by his sacrifice RECONCILED to GOD ALL MANKIND." [Gould Ans. I. ph. 63].—*Proof*. Art. 21 of said cfsn. says that "Christ by his death, did purchase salvation for the *elect*... These *only* have interest in him," &c.

9. The Cfsn. of 1689 did NOT SUPERSEDE, but CONFIRMED the testimony given by the London Cfsn. of 1644—1652. [Gould Ans. I. ph. 77.] *Proof*. Intro. to Cfsn. of 1689, said that it was "a testimony of [their] firm adhering" to the London Cfsn., and that "the substance" of that of 1689 was "the same."

10. Mr. Gould's APPEAL TO SEVERAL LONDON MINISTERS for advice in or about June 1857, did not bear any resemblance to a meeting of ch. messengers such as that mentioned in ch. 26, sec. 15, of Cfsn. of 1689. [Gould, Ans. I. ph. 159.]

*Aft. III. for pl'tfs.—Aft. of SIMON WILKIN, pl'tf. and trustee. Filed Nov. 2, 1859.*

1. "Never was," as deft. Gould alleges, Ans. III. ph. 78, "a 'zealous advocate' of...open cmn. For some time before" Mr. Kinghorn's death, "and ever since [has been] an advocate of strict cmn."

2. "At no time...an advocate of,...but

always opposed to the introduction of open cmn." into this ch., "as inconsistent with the fundamental constitution of the ch."

*Afft. IV. for plths.—Afft. of GEORGE MOORE, WM. PRESS, WM. ALEXANDER, EDMUND HASTINGS, and JOHN SPALDING, respecting the practice of this ch. in the time of Mr. Kinghorn. Filed Nov. 2, 1859.*

1. "Were for *many years*," while "Mr. Jos. Kinghorn was pastor of [this ch.], *members thereof*."

2. "During those years" one object for which this ch. "appointed messengers to visit all candidates," except those received by *letter* from some other ch., "was to ascertain on behalf of the ch. . . whether they *held substantially the doctrines*...taught by the pastor and recognized by the ch. . . The church was accustomed to *satisfy itself on these points* before it resolved that such candidates should be received to membership, and...such resolution always contained the proviso that if...not already...they *should be immersed, before they were received to cmn.*..."

3. "During those years...no person was admitted to *permanent cmn. in the L's Spr.* with the said ch., who was not admitted thereto as a *member of it*."

4. "To the best of [their] knowledge...no person during [those] years was [received] as a *transient member or occasional communicant* who was not first MENTIONED to such cgn." It "claimed the *sole authority* to decide who was to be received to *occasional* as well as *permanent cmn.*," and this was done that it "might prevent [such persons from] communing with it, if it thought fit." They believe that during said time no persons were received to "occasional cmn...but those who professed to be, and were received as, Pr. BPTS.; CERTAINLY NONE BUT PERSONS BAPTIZED," &c., "and it was customary to mention to the ch. the name of THE Pr. BPT. CH. of which they were members."

5. Deponents Hastings, Spalding, and Press, say that a person named, they believe, Robertson, "who had been baptized by Mr. Kinghorn, was not permitted to commune with this ch. *in the L's Spr.*, because he was not a member of this or any other ch. recognized by it as duly organized."

*Afft. V. for plths.—Afft. of ROBERT GUYTON, WM. PRESS, WM. WHITE, EDMUND HASTINGS, and JOHN SPALDING,*

*being part of the members whose exclusion was one result of the innovation commenced in 1845. Filed Nov. 2, 1859.*

1. They were members when Mr. Brock began his new service on April 20, 1845, "and thus violated the rules of that ch. with respect to the observance of the L's, Spr." [See pp. 8, 9, preceding.]

2. "That the DUTY OF INSISTING ON THE OBSERVANCE OF ITS RULES, is vested in the MEMBERS of this cgn. . . . We ceased from sense of duty to observe the L's, Spr. *with the ch., until the ch. should cause this violation of its rules to be discontinued*; and because we did so, certain members, who, as a whole, were bent on permitting the said violation to continue, declared on the 28th of June, 1847, that we were no longer from that time members of the ch., and we were thus, *against our earnest desire* to retain our rights as members of this ch., deprived of them," &c.

3. "That we...were entitled to share in [the] use of that building, whereas those" received to the L's Spr. by Mr. Brock, "not being *Baptists, nor members of, nor occasional communicants* with that 'cgn. of Pr. Bpts.' could show no right to the use of the building whatever."

*Afft. VI. for plths.—Afft. of REUBEN WILLIS, and BENJAMIN THOULESS, proving a protest made April 11, 1857, against the then recent innovations.*

1. Went with pltf. W. Norton on April 11, 1857, to see deft. Gould, pastor, defts. Cozens, the elder, Fletcher, and Tillyard, deacons and trustees, and Cozens, the younger, not a member, but a trustee. [See p. 19 preceding.]

2. The said W. Norton "informed each...that he called as a *trustee*,...and said that the admission of persons who were not *Pr. Bpts.* to cmn. with the said ch.,...was a breach of the trusts," or used words to that effect.

3. "The said W. N...represented" to the four first named defts. "that if their sentiments were such as to *require* them to admit to ch. cmn. with themselves, persons who were not Pr. Bpts., they...and any other members who agreed with them...ought to give up the use of the said chapel; and he requested that they would do so."

4. That the said five defts. all "denied that the admission of persons who were not Pr. Bpts. to cmn. with this ch. was a breach of the trusts," &c.

5. That deft. Gould said "he did not intend to vacate the pulpit at the re-

quest of one trustee, referring to" Mr. Norton.

*Aft. VII. for plths.—Aft. of REUBEN WILLIS, and RICHARD SPALDING (members and plths) and of JOHN BARBER, THOS. POTTER, BENJAMIN THOULESS, PHILIP ARMES, and WM. ALEXANDER, (members), respecting the innovations commenced in 1857. Filed Nov. 4, 1859.*

Only those of the above deponents whose initials are given at the beginning of each ph. attest its contents.

1. W. S. B. T. heard deft. Tillyard's proposal as to E. BAYES, Jan. 1857. [See p. 15, preceding.] They and other members who adhered to the ancient rules of the ch., expecting her presence at the L's. Spr. on the first Sunday in Feb., "were compelled at the imperative dictate of conscience to stay away."

2. W. S. B. Ar. T. After the above proposal was made, and before E. Bayes communed, defts. Gould, Cozens, the elder, Fletcher and Tillyard, were told that her cmn. would cause such absence "for conscience' sake," but they "positively refused to use their influence to prevent that proposal from being carried into effect."

3. W. S. B. Ar. T. Al. A proposal to receive *all believers* to cmn. with the ch. in the L's. Spr., was seconded by deft. Cozens, the elder, in Feb. 1857; the discussion was resumed on March 11th, 1857; when deft. Gould read a paper "*advocating the admission of all believers to the L's. Spr.*" (Exbt. K. 40.) He "admitted that the L's. Spr. was a *ch. ordinance*." His arguments, especially at pp. 9 and 11 of K. 40, "virtually condemned the above proposal as inconsistent in not admitting all believers to *full membership*;" deponents understood the words of the proposal, "that the constitution of this ch. remain unaltered," as meaning that "it would be altered if [all believers] were admitted to *full membership*" as well as to the L's. Spr. [See pp. 16, 17, preceding.]

4. W. S. B. T. Al. Defts. Gould, Cozens, the elder, Fletcher Tillyard, and other members "proceeded to admit to *regular*...and not merely to *occasional* and *transient* cmn. with this ch. in the L's. Spr., believers who were *not Pr. Baptists, nor Baptist at all*. On March 30, 1857, deft. Tillyard proposed [res. II. on p. 18, preceding.]

5. W. S. B. T. Al. On March 30, 1857, deft. Tillyard proposed that persons who were not Baptists, applying for *regular* cmn., "should be visited by a deputation

from the church, and be otherwise treated as *candidates for admission to ch. membership*" are treated. [See Res. III. on p. 19, preceding.]

6. W. S. T. Dec. 29, 1858. Two PRESBYTERIANS and one INDEPENDENT applied for *regular* cmn. Defts. Gould and Tillyard expressed much pleasure on account of it; and visitors were appointed in imitation of the course pursued in the case of those "who apply for *full cmn.*"

7. W. S. T. Jan. 31, 1859. Certain members voted the admission of said Presbyterians and Independent. Mrs. Howard, an *Episcopalian*, was proposed, and messengers appointed to visit her. Defts. Gould and Tillyard "*prevented*" witness S. from opposing the admission of all these four persons.

8. W. S. T. Dec. 29, 1858. Deft. Tillyard called them "*intruders*;" deft. Gould said "he did not recognize [*them*] as members."

9. W. S. B. T. Jan. 31, 1859. Deft. Tillyard called them "*intruders*." Deft. Gould "said he would not hear a syllable from" them.

10. W. S. B. T. Ar. Feb. 28, 1859, they "were resolved to insist on [their] right to oppose the introduction of such persons." Mr. Barber rose to speak. Deft. "Gould said he would not hear" him. Mr. Barber "asked him to point out...any *resolution of the ch.*, which had placed [him] under ch. discipline, and insisted on an answer." Deft. Gould "immediately dissolved the meeting," and no other ch. meeting was known to have been held since.

11. W. S. A "MISSIONARY CMN." was held in this chapel in May, 1857. They "heard the members of *all Christian chs.* invited" to it. Two Wesleyan Methodists informed W. that they "took part in the said service;...had not to apply to any one for a ticket, or for any other introduction, but had only to go and take their places."

12. W. S. T. Believe that a LIKE MISSIONARY CMN. took place there on May 10, 1859; that deft. "Gould presided, ...and that defts. Cozens, the elder, Fletcher, and Tillyard, handed the bread and wine."

13. W. S. P. T. Al. Exbt. K. 44 is a copy of two DECLARATIONS "presented in [their] presence," at ch. meeting, June 29, 1857, the one "signed by 92," the other "by 40 members." [See pp. 28, 29, preceding.]

14. W. S. B. P. Al. T. On June 29, 1857, deft. Gould "read in [their] presence...a paper on Schism," Exbt. K. 41;



in which he said "that those who had 'ceased to meet with this ch. to eat the L's Spr.' (K. 41, p. 1, sec. 4) 'had fallen into schism' (p. 5, l. 42); though he knew that their absence was occasioned *solely* by the introduction of free cmn.; partly through his *own advocacy*." He said also that *strict cmn.—the former practice of this ch., is schism*, p. 5, line 24. [See p. 21, preceding.]

15. W. S. B. AL. T. *The special service* proposed by defts. Gould and Fletcher "for baptized believers only," would not have enabled them to attend "*all the services* of the ch.;" and these they "had a right to attend."

16. W. S. T. April 26, 1858, heard defts. Fletcher and Tillyard propose that messengers be appointed to visit "members, because they had not communed with the ch., since persons not immersed" after faith, had done so.

17. B. W. S. This Bill in Chancery was filed at their "urgent request," made on behalf of protesting members, and was "absolutely necessary" in order to prevent their exclusion.

18. W. S. B. T. On May 30, 1858, which was *after* the bill was filed, deft. Fletcher and others urged them to withdraw from ch.-meeting, and persevered in thus "endeavouring to deprive" them of their rights as members, "though the ch. as a body had not adopted any resolution excluding" them. They "thus violated the congregational government of the ch."

19. B. Deft. Tillyard told him "that he was the author...of a pamphlet...The Cm. Question at St. Mary's, 1857."

*Aft. VIII. for plfts.—Aft. of GEORGE WRIGHT, JOHN COOPER, and SAMUEL COLLINS, who had been Pr. Bpt. ministers for 37, 30, and 33 years, respectively, in the county of Suffolk. Filed Nov. 2, 1859.*

1. "That a PR. BPT. CH. consists of persons...IMMERSED on a profession of their faith in Christ...and who hold the doctrine of PR. REDN., that is, ... that Christ as the Surety, of God's elect, bore their sins and died exclusively for their redn., and that by his death, as the ransom-price of their redn., he obtained for them eternal salvation."

2. "That PR. BPT. CHS. deem the L's Spr. to be *exclusively* a ch. ordinance," &c.

3. That this ch. "had, before the time of the innovations complained of...the reputation among Baptists of being *wholly composed of and of holding ch.-cmn. exclusively with Pr. Bpts.*," &c.

4. "That chs. which receive to their cmn. none but Bpts., or none but Pr. Bpts., do so on the ground that such practice is an *essential part* of the constitution of a ch. of Christ duly organized, and that from that practice they are forbidden by God to deviate."

5. "That...all Baptists who so deem immersion on a profession of faith *pre-requisite and essential to ch.-cmn.*, and particularly to the L's Spr. as a chief part of ch.-cmn., are of necessity excluded from the L's Spr., by the introduction to [it] of persons who have not been so immersed; nor can they continue to be members of a ch. which receives such persons to that ordinance or to full ch. cmn." They "cannot...consistently join in, nor, by continuing members of such a church, sanction its cmn. with persons who have not been so immersed."

*Aft. IX. for plfts.—Aft. of Pr. Bpt. ministers living in or near London: that is, of JOHN FOREMAN, a Pr. Bpt. minister for 43 years; SAMUEL MILNER, for 28 years; PHILIP DICKERSON, for 42 years; JOHN ANDREW JONES, for 51 years; CHARLES BOX, for 24 years; GEORGE WYARD, for 21 years; WILLIAM BALL, for 37 years; WM. PALMER, for 35 years; and JOHN HAZELTON, for 19 years. Filed Nov. 3, 1859.*

This aft. is substantially the same as phs. 1, 2, 4, 5, of the preceding.

#### SEC. VII. AFFIDAVITS ON BEHALF OF DEFTS.

*Aft. I. for defts. The first of deft. GEORGE GOULD. Filed Nov. 9, 1859.*

That the statements of his THREE ANSWERS as to "matters within [his] own knowledge....ARE CORRECT AND TRUE," and that those relating to matters not within it, he believes to be so; some clerical errors, here mentioned, excepted.

*Aft. II. for defts. The second of deft. GEORGE GOULD. Filed Nov. 9, 1859.*

PHS. 1—31. PR. BPT. ASSOCIATIONS.

1. Deft. has made "diligent inquiries."

2. Believes what he states in Exbts. A.

and B. to be correct. 3. He sent a "set

of questions" by post, to the secretaries

of all associations of Pr. Bpt. chs. exist-

ing in 1859, except the Suffolk and Nor-

folk Asson., of which he had information.

4. Answers received as to all but the

CARNARVON and the NORTHERN.

5. Believes that the CARNARVON "consists *exclusively* of cgnos. practising strict cmn."

6, 7. That the OLD WESTERN [or SOMERSETSHIRE] was succeeded in 1823 by the WESTERN and the BRISTOL ASSONS. 8. That it existed in 1653; was dissolved in 1823. "Appears at one period to have included some cgn. of Gl. Bpts." 9. That the "earliest meeting" of its elders and messengers on record, was held in 1653. Mr. G. says they resolved that the churches should be left to their own "judgment" as to *laying on of hands after baptism*, but that a minister should not be permitted to preach to the chs. if he "contended for it as a term of cmn." "No list is extant of the cgn. then constituting" it.\* 10. That the SOMERSET Cfsn. was published by it in 1656. 11. That elders and messengers from many of its cgn. formed part of the assembly of 1689. 12, 13. That the general assemblies of 1691 and 1692, recognized the cgn. at Broadmead, Bristol, "as belonging to their own body." That cgn. "then practised open membership." † 14. That the OLD WESTERN held annual meetings of elders and messengers from 1692 downwards. In 1733 it was restricted "to cgn. of Pr. Bpts.," and adopted the Cfsn. of 1689 as "the foundation of [its] future meetings." This act was confirmed in 1734. 15, 16. Said cfsn. was recognized, and recommended at its meetings in 1760, and 1762. 17. With a few exceptions said cfsn. was annually acknowledged by it from 1774 to 1819. 18. "The *preliminaries*...read *annually* at [its] meetings," spoke of "the members of this assn." as "*persons...who agree in opinion* with one another, not only concerning the ordinance of baptism, but also respecting the doctrines of salvation by grace," &c. 19. That the NEW WESTERN and the BRISTOL ASSONS. after the dissolution of the Old Western, "*adopted the last mentioned preliminaries* as the basis" of each; but in 1831, the BRISTOL omitted reference to the cfsn.

20—23. That the MIDLAND ASSON. "was formed in 1655," but "no record exists of any meeting... between 1659 and 1690." In 1690 it "was reconstituted, and ... adopted" Cfsn. of 1689, as its basis. That its *preliminaries*, adopted in 1817, and still read annually,

\* There is a list of them for 1656. This includes the *strict* ch. at Bristol, pastor, Henry Hineham, but *not* the mixed ch. at Broadmead, Bristol. See Somerset Cfsn., Epistle Dedicatory, H. K. S. Cfsns., p. 73.

† No *proof* of this is given here, nor was given when asked for at the hearing of this cause. See Mr. R. Palmer's Reply.

contain the very same words as those of ph. 18, respecting the *agreement* of its members on the subjects of *baptism* and *grace*. That it from its "formation hitherto has *always* included cgn. practising open cmn." ‡

24. That the NORTHERN was "formed 1690," of six cgn. "of which" at least one practised open membership.§ That it "continued its meetings...with occasional intervals, until 1783. In 1795 it was resuscitated."

25. That, in NORFOLK and SUFFOLK, an assn. existed in 1691, but he knows of *no record of its proceedings or practice*.¶

26—30. The OLD WELSH ASSON. 26. That it was formed in 1650. But that "notwithstanding [this], the cgn. of Pr. Bpts. in Wales" sent elders and messengers to the meetings of the Old Western Assn. until 1699. 27. That Mr. Joshua Thomas, in his History of the Welsh Assn. up to 1790, London, 1795, p. 21, says that till 1689, "the Baptists.... were in mixed cmn. with Independents ...in most if not all of our cgn. in Wales."\*\* 28. In 1734 and 1749, the chs. of the Welsh Assn. were requested to mention their agreement with the Cfsn. of 1689. 29. That Mr. Joshua Thomas, p. 48, says they were "very strict for laying on of hands on the baptized" from about 1689 to 1736, when the elders and messengers gave it as their opinion that "persons of different sentiments" on the point, "might be admitted to and continued in cmn." 30. That it was dissolved in 1790, and other assons. formed.

31. That the ASSONS. NOW EXISTING, whose "PRESENT rules or preliminaries" recognize the Cfsn. of 1689, are the Carmarthenshire and Cardiganshire, the Devon, the Glamorganshire, the Midland, the Pembrokeshire, and the Western.

32. That the Pr. Bpt. FOREIGN, IRISH,

‡ Of this no *proof* is given.

§ No *proof* is given of this. In 1848, the meeting of this assn. after inquiry into its history from 1700, resolved that it "*has been proved to be a Strict Bpt. Assn.*" Mr. Gould is believed to have received a copy of that resolution. Ed.

¶ This is the only assn. whose proceedings can have the *least connexion* with this cgn., and of this nothing is known.

\*\* This assn. was founded by Strict Bpt. chs., and its letter, in 1790, declared that "*no person should be received into ch.-covenant, or cmn., without being baptized.*" Rippon's Reg. 1790, p. 67; J. Thomas' Hist., pp. 5, 11; Dr. Richards' Hist., 178—183. Ed.

and HOME Missionary Societies, are "*Societies of Pr. Bpts.*"\* That they have "always hitherto been and are now, accustomed to receive contributions from ...and to bestow such contributions in aid of...cgn." practising open membership, and open cmn. at the L's. Spr.

33—36. References to *deeds* of land purchased for the enlargement of this chapel in 1810, 1811, and 1839.—*Ref.* These deeds were not mentioned in the list of documents before said to be in the possession of defts. See their Answers to the Bill, ph. xxviii. p. 67, preceding.

*Afft. III. for defts.—Afft. of deft.* GEORGE GOULD and BENJAMIN ALEXANDER. Filed Nov. 9, 1859.

1. B. ALEXANDER has been chapel-keeper and sexton for 36 years; and a member since Nov. 5, 1823.

2. Mr. A. affirms the accuracy of minutes of March 26, and April 30, 1838 (see p. 8, preceding,) and of May 26, 1845 (see p. 9, preceding), referring to the first agitation and introduction of free cmn. by Mr. Brock.

3. Mr. A. delivered copies of Mr. Brock's "*printed Circular Letter*" of 1845, announcing his intention to institute an open-cmn. service in the said chapel, to the members living in and near Norwich. (See p. 8, preceding.)

4, 5, 6. Mr. G. and Mr. A. both declare, that their statements *thereafter made*, as to each of the 42 persons who signed the PROTEST of 1845 (see p. 9, preceding), and of the 132 who signed the DECLARATIONS of 1857, (see p. 28, preceding) are, as they believe, "*true and correct in all respects.*"

\* SCHEDULE I., relates to the PROTESTING MEMBERS of 1845. It states that R. GUYTON, J. WILLIMENT, W. OWEN, W. PRESS, Z. RICE, J. SPALDING, J. KELF, W. NASH, W. WHITE, E. HASTINGS, and T. KELF, who were *excluded from ch. membership by the act of a majority* in 1846 and 1847 (see pp. 10, 12, preceding),

\* These societies are founded on a mere money qualification for membership, and therefore are not, strictly speaking, "*Societies of Pr. Bpts.*," even if devoted to Pr. Bpt. objects.

† None of these members resigned their membership. Nor did the free cmn. members venture, in their resolutions of Aug. 31, 1846, and June 28, 1847, *excluding* them (see pp. 10 and 12, preceding), to assert that they resigned it, but only to say that by their absence from the *L's. Spr.* they had "*relinquished*"

all "left the cgn., and [that their] voluntary absence was regarded as a resignation of membership." † It also states that other members in April 1857, "*left* in consequence of the introduction of open cmn.," who in reality had not left the church, but were still members: for instance, W. Emms, W. Yarrinton, W. Wales, J. Adlam, P. Armes, W. Alexander.

SCHEDULE II. relates to the 132 who signed the Declarations of 1857. The most important fact connected with this schedule is that the witnesses (as stated already at p. 28, preceding), have therein made a statement as to the signatures, which it does not seem possible to reconcile with clear and indisputable fact. They have stated that 37 persons, who appear beyond a doubt to have signed the first Declaration, signed the second, and not the first at all. It is unnecessary to notice any charges of inconsistency which this schedule brings against some who signed. Many at the least were faithful and consistent, and their declaration is all-sufficient.

*Affts. IV. to VII. for defts.—Afft. IV. of deft.* JAMES COZENS, the elder.—*Afft. V. of defts.* JOSIAH FLETCHER, and ROBT. TILLYARD.—*Afft. VI. of* ANN COLMAN, an elderly member.—*Afft. VII. of* THOMAS BRIGHTWELL, a Pædobaptist, who was formerly a public worshipper in this chapel. The first two filed Nov. 9, the last two Nov. 7, 1859.

These affidavits are in part alike, and their contents are therefore here placed together. For brevity, C. F. T. Col. and B. are used to denote them respectively; and, to avoid ambiguity, those views which Mr. Gould calls particular and limited redemption, are here mentioned as atonement for all, and atonement for the elect.

ANSWERS I. and II. of Mr. Cozens and the five jointly answering trustees, are

and "*terminated* their membership." A person may be said to *relinquish* by his acts, what he did not *intend* to relinquish; but he can scarcely be said to *resign* unless he *intends* to do so. This they never did intend; and to say that those who in fact excluded them, regarded their exclusion as a *resignation*, is giving a shade of colour to their words, still darker than the true. To call the absence of the eleven from the L's. Spr. "*voluntary*," does not convey a right impression; for their absence was against their earnest wish. Mr. Brock had, in their view, compelled it.—ED.

said in ph. 1 of C. and F. T. to be, in their belief, "correct and true."

What deponents SAY OF THEMSELVES.

—C. says, ph. 2 that, he has been a member since Sept. 13, 1804. F. T. ph. 2, that F. has been a member since Feb. 2, 1825, and T. since March 7, 1824. Col. says, ph. 1, that she has been so since May 28, 1791. B. says, ph. 1, that he was an habitual worshipper from about 1810 until about 1832. All say that they were well or intimately acquainted with Mr. Kinghorn.

HYMNS. C. 3, and F. T. 3, say that this cgn. for 70 years until 1838, used those of Dr. Watts, and the collection of Drs. Ash and Evans, of which last J. Kn. published two edns. and adding to it a supplement of 28 hymns, for the use of the said cgn. That it still uses those of Dr. Watts. In ph. 4, they assume that said hymn bks. teach *atonement for all*, and *not atonement for the elect*, and say they believe that no objection to the hymns was ever made by any member on that account.—*Ref.* Gould Ans. III. 50, 51; p. 72, preceding

VIEWS OF ATONEMENT, in respect of terms of membership, and of cmn. in L's. Spr. C. 5, F. T. 5, and B. 3, say that they are not aware that this cgn. ever required "any profession or declaration of opinion" as to whether atonement were for all or only for the elect "from candidates for admission to membership;" nor that it ever, say C. 9, F. T. 7, required it from candidates for cmn. in the L's. Spr. B., ph. 2, says he believes that Mr. Kn. "during the whole course of his ministry...maintained the doctrine" of atonement for all, as distinguished from atonement for the elect.

PRIVATE OPINIONS AS TO COMMUNION, in respect of terms of membership and of cmn. in L's. Spr. in this ch.: C. ph. 6, F. T. 6, and Col. 3, believe that it has never been the practice of this cgn. "to require any profession... of opinion on the question of...cmn., from candidates for membership." C. 7, 8, says that on Oct. 27, 1834, "several members" refused to receive any statement as to the opinions of ELIZABETH KITTON on cmn.; and that on Aug. 31, 1835, deft. Allen being appointed deacon, several members said that no profession of opinion as to cmn. was necessary to holding the office of deacon. C. 10, and F. T. 8, say that no such profession of opinion was required from candidates for cmn. in the L's. Spr.

JOS. KINGHORN FOR A TIME UNDECIDED AS TO CMN. C. 11, and Col. 2, say that

for some years he was "undecided" in opinion on the subject. *Ref.* p. 74, col. 2.

ALLEGED PROBABLE MAJORITY for a long time past in favour of free cmn. C. 12, said that probably for 40 years then last preceding; F. T. 9, said that for 70 years; Col. 4, said that at any time during her membership; and B. 4, that for 50 years last past, a large number and *probably a majority* of the members were in opinion favourable to open cmn.

DID THIS CH. COMMUNE WITH INDEPENDENT CHS. in Mr. Kinghorn's time? C. 13, and Col. 5, say that it united in 1797 for nine weeks with two such chs. in *public worship*; and that there is "no record, nor do they recollect being informed" that it "celebrated the L's. Spr. *apart from*" those cgns.\* They say also that in 1811, the Independent ch. at the Old Meeting invited this ch. to unite with it in the L's. Spr., but Mr. K. declined the invitation; and several open cmn. members expressed surprise that he had done so.—*Ref.* Gould Ans. III. 72.

CONTRIBUTIONS TOWARDS REBUILDING THE CHAPEL IN 1811. C. 14, says that about "three-fourths" of the contributions; and F. T. 10, and B. say contributions "to a large amount," were given by persons holding "*opinions* in favour of...open cmn."†—*Ref.* Gould Ans. III. ph. 73.

"MANY MEMBERS" in 1812 desired that this "cgn. should THENCEFORTH PRACTISE OPEN CMN.:" C. 15, B. 6. C. 16, says that a conference was held on the subject by four members on each side, but that "no resolution...was adopted;" and B. 7, says that "no arrangement" was made to admit to cmn. persons who were not Baptists.—*Ref.* Gould III. ph. 74.

DEFERENCE TO Mr. K., and the UNDERSTANDING THAT HE WOULD RESIGN if free cmn. was adopted, are alleged to be the reasons why the subject was not agitated after 1816. C. 17; F. T. 11; Col. 4; B. 8.—*Ref.* Gould Ans. III. 76.

Witnesses say that Mr. Cozens and the

\* These witnesses would, no doubt, have heard of the fact, if this cgn. had really celebrated the L's. Spr. *with* those cgns. Ed.

† Mr. Wilkin who always *opposed* the introduction of free-cmn. into this ch., gave largely. His contributions are probably reckoned as part of those mentioned. The sole question, however, for the Court, related to the *purpose* for which the *trust* was founded. Ed.

other members who were in favour of open cmn. "did NOT MODIFY [their] OPINIONS." C. 18; F. T. 12; B. 9.—*Ref.* Gould Ans. III. 77.

They say that pltf. S. WILKIN was admitted a member, Oct. 12, 1808, and was "a zealous advocate" of open cmn. "during the remainder" of Mr. K.'s ministry: C. 19; F. T. 13.—*Ref.* This Mr. W. says is not correct. See his afft. —Also Gould, Ans. III. 78.

As to CONTRIBUTIONS TO THE ENLARGEMENT of the chapel in 1838: C. ph. 20, says that about two-thirds of them, and F. T. 14, say "a large amount" was contributed by persons holding "opinions in favour of .open cmn."—*Ref.* Gould Ans. III. 79.

*Afft. VIII. for defts.—Afft. of deft. JAMES COZENS, the younger, and HENRY UTTING CULLEY. Filed, Nov. 9, 1859.*

They declare the statements made in their answers to be "correct and true," as to things within their own knowledge; and that they believe them to be so, as to things not within it.

*Afft. IX. for defts.—Afft. of SARAH BROWNE, a member. Filed, Nov. 9, 1859.*

1. Has been a member since 1816.

2. Heard at ch. meeting Oct. 17, 1834, "several members" object to the question of "one of the members," that is, "Is she (meaning Eliz. Kitton) a strict communionist?" E. Kitton was admitted a member "without being required to answer the same."

*Afft. X. for defts.—Afft. of 13 leading advocates of free cmn.; that is, of THOMAS STEFFE CRISP, who was baptized by Mr. Kinghorn in this chapel, and has been for more than 40 years a minister of Broadmead Chapel, Bristol, and is President of Bristol Baptist College; of FREDERIC WM. GOTCH, L.L.D., Tutor of said College, and one of the Examiners of the University of London; of JAMES ACWORTH, L.L.D., President; SAMUEL GOSNELL GREEN, B.A., Tutor; and THOMAS POTTENGER, Tutor of Rawdon College, near Leeds; of JOSEPH ANGUS, D.D., for upwards of nine years President, and BENJAMIN DAVIES, L.L.D., Tutor of Regent's Park College; of EDWARD STEANE, D.D., for 36 years minister of Denmark Place Chapel, Cumberwell; of JOHN LEECHMAN, L.L.D., of Hammersmith, for 27 years a Pr. Bpt. minister; of THOMAS PRICE, L.L.D., for 12 years minister of the cgn. in Devonshire Square, London; of FREDERICK TRESTRAIL, for 11 years a Secre-*

*tary of the Pr. Bpt. Missionary Society; of CHARLES JAMES MIDDLEDITCH, Secretary of the Baptist Irish Society; and of CHARLES MITCHELL BIRRELL, for 22 years minister of the cgn. meeting in Pembroke Chapel, Liverpool. ALSO of CHRISTOPHER WOOLLACOTT, a Strict Baptist, and Secretary of the Baptist Building Fund.\* Filed, Nov. 7, 1859.*

1. Deponents describe themselves by giving the above and other particulars.

2. They say that "the name PARTICULAR BAPTISTS was derived from the doctrine called particular redemption," and that "Pr. Bpts. have been and still are frequently called and known as BAPTISTS, the term Particular being dropped;" and that the *Gl. Bpts.* "are for the sake of distinction commonly called by that name."

3. Say that "many PERSONS," who are Pr. Bpts. are "members of cgn. holding ...infant baptism."—*Ref.* Gould, Answ. I. 16.

4. They define OPEN MEMBERSHIP in the same manner as deft. Gould, in Ans. I. 21.

5. OPEN MEMBERSHIP CGNS. are said to "have always called themselves and been recognized as Pr. Bpts.;" *sprinkling* is said never to have been used in them; such Bpts. are said to have generally considered the practice OPEN TO MODIFICATION. They support deft. Gould's Statements in Ans. I. ph. 22.

6. Define OPEN and STRICT CMN. as it is defined by Mr. Gould, in Ans. I. 29, 33. See p. 55, preceding.

7. Say that CGNS. PRACTISING OPEN CMN. in the L's. Spr. "have always called themselves Baptists;" that in them *infant sprinkling* was never administered; nor its validity admitted; and that those who have practised such open cmn., "have generally considered it...open to modification according to the circumstances of any individual."—*Ref.* Words the same as in Mr. Gould's Ans. I. 30; see p. 55, preceding.

8. The L's. Spr. and membership said to be DISTINCT. Pr. Bpts. adopting open cmn. IN THE L's, SPR. have, they say, *always* considered it "to be ENTIRELY DISTINCT FROM...OPEN MEMBERSHIP;" but that cgn. "practising open membership always practise open cmn."—*Ref.* Words as in deft. Gould's Ans. I. 31, 32; p. 55, preceding.

9. Pr. Bpts. have always held, they

\* At p. 53, col. 1. This afft. was from oversight described as by 14 advocates of free cmn., instead of by 13 advocates of open, and one of strict cmn.

say, that PRAYER, PRAISE, and HEARING OF THE PREACHING OF THE GOSPEL, are "Divine ordinances of the same nature as baptism and the L's. Spr.," &c. See Mr. Gould's Ans. I. ph. 34, at p. 55, preceding.

W. KIFFIN and others, they say, about the year 1653 withdrew from a cgn. of Pr. Bpts., formed by Mr. Spilsbery, because they doubted the lawfulness of hearing the preaching of the gospel by persons...not...baptized; or of joining with them in any act of religious worship or service, exclusively of the cmn. of the L's. Spr.—*Ref.* Gould. Ans. I. ph. 26.

10. THE CMN. QUESTION "has been, [they say], an OPEN one, EXPRESSLY RECOGNIZED AS SUCH, among Pr. Bpts.," &c., as in Gould, Ans. I. 35; see p. 55, preceding.

11. FLUCTUATION of practice. They give two alleged examples of it. Mr. Spilsbery's ch. they say, "now meeting in Whitechapel, ... practised open membership and open cmn. for many years from its formation."\* Mr. Kiffin's ch. "now meeting in Devonshire Square," London, was, they say, "the first cgn. which practised strict cmn., [and that it] continued for many years in that practice, but now practises open membership and open cmn."—*Ref.* Gould, Ans. I. phs. 20, 23, 36; at pp. 54, 55, preceding.

12. There is, they say, *no controversy* as to whether those "who practised open membership or open cmn. are Pr. Bpts."

ARGUMENTS. Advocates on both sides, have, they say, "uniformly addressed [these] to all cgns. of Pr. Bpts., practising open membership, or open cmn., or strict cmn."—*Ref.* Gould, Ans. I. ph. 46, at p. 56, preceding.

13. ASSOCIATIONS. They say that cgns., whether strict or open, either in membership or the L's. Spr., "have always been, and still are, accustomed to unite together in associations, as Pr. Bpts." Gould, Ans. I. phs. 47, 48; at p. 56, preceding.

14. They say that "EACH of these assns. comprises generally the cgns. of Pr. Bpts., whether practising open membership, or open cmn., or strict cmn., of one county or district," &c.

15. That in numerous "SOCIETIES of Pr. Bpts." for missions, &c., Pr. Bpts. of the above three practices as to cmn., "have always hitherto united themselves ... as Pr. Bpts."

16. SPECIAL ASSEMBLIES. They say that "many cgns. of Pr. Bpts." of the above three practices, have "upon equal terms as Pr. Bpts., met together by their representatives or messengers in special Assemblies, held at various times for the consideration and determination of questions respecting their faith and order, and for the preparation and adoption of a common cfsn. of their faith as Pr. Bpts."† —*Ref.* Gould, Ans. I. 50, at p. 56, preceding.

17. They say that the CFSN. of ASSEMBLY of 1677, has been and is considered "a just exposition," &c. See deft. Gould's Ans. I. ph. 51, at p. 56, preceding.

18. MESSENGERS OF ASSEMBLY of 1677. Deponents say that some of them "no doubt," were from open membership and open cmn. chs.

THE APPENDIX TO THE CFSN. of 1677, they say, referred to this question "as an instance of the want of accord among the members of [this] assembly," and that it was left by it "undetermined." —*Ref.* Gould's Ans. I. 72, p. 58, preceding.

19. They say that "PRAYER, PRAISE, and the PREACHING of the gospel," as parts of "PUBLIC WORSHIP, are, according...generally to the doctrine of Pr. Bpts...entitled to be called CHURCH ACTS IN EVERY SENSE" in which the cmn. of the L's. Spr. is so; but, since 1689, have "never been restricted among Pr. Bpts. to baptized persons being members of the cgn. performing such public worship."—*Ref.* Gould, Ans. I. 122, 123; and the Five, phs. 16, 17, at p. 63, preceding.

They say that "the term 'STRICT CMN.' has always, at least since the said assembly of 1689, been considered by Pr. Bpts. to relate *exclusively* to admission to the L's. Spr.,‡ and to mean the restricting such admission to persons who are members of the cgn.,...or who are Pr. Bpts., or who have been" immersed after faith.

† Defts. and their witnesses seem to imply that these assemblies were like councils of the Church of Rome. Ed.

‡ See origin of the term "Strict Baptists," about 1772; Gould's Ans. I. 43; Norton Afft. I. 33; and proof, that in and before 1746 open cmn. included open membership. Norton, Afft. I. 53.

\* Can the defts. or their witnesses, adduce any evidence of this? any evidence sufficient to destroy the proof which exists to the contrary? If it can be done, it no doubt will be. Ed.

20. They say that "several COLLEGES" exist for educating "young men for the ministry among cgn. of Pr. Bpts.;" and that in these the question of cmn. "is treated as a question not determined by Pr. Bpts. as a body." The "principal" being the Bristol, Rawdon, and Regent's Park Colleges.

21. "The terms 'PARTICULAR' and 'LIMITED,' used in" Bill, pl. 3, "are not strictly synonymous. The term 'limited redn.' has never been, nor is, so far as we are aware in use among Baptists, although the term 'limited atonement' is" so.—*Ref.* Gould, Ans. I. 11, 101; Ans. III. 2—8. The Five, Ans. I. 3; pp. 53, 61, 68—70, preceding.

22. They say that the "PARTY HOLDING THE DOCTRINE OF PARTICULAR REDEMPTION, AS DEFINED IN THE [THIRD] ANSWER OF THE DEFT. G. GOULD,...HAS HITHERTO INCLUDED,\* and still includes, THE MAJORITY OF PARTICULAR BPTS.," "the PARTY HOLDING...LIMITED REDN. being in a small minority."—*Ref.* See Mr. Gould's definition of Pr. Redn., Ans. III. 2—8, at p. 68—70, preceding.

*Affts. XI., XII., XIII., for defts.—Affts. of WILLIAM LEPARD SMITH, of deft. JOSEPH HOWSE ALLEN, and ROBERT LUSH, Q.C. Each of these is of the same purport, and filed Nov. 9, 1859.*

1. Each says that he is a treasurer of "The PR. BPT. FUND...instituted in London in 1717."

2. That its title "Particular Baptist," was adopted to "distinguish" the founders from Baptists who held Gl. Redn. That "the exhibitions" have "been uniformly made to the *persons* practising free or mixed cmn. with the same readiness as to others."

3. That "the practice of open,...free, or mixed cmn., or the practice of strict cmn. respectively, by any *cgn. of Pr. Bpts.*, has always been regarded by the managers of this fund as consistent with the designation of such *cgn. as Pr. Bpts.*," and "such practice has ALWAYS been treated by the managers...as IN NO WAY AFFECTING the applications of those *cgn. or ministers* who have applied for exhibitions from this Fund."

\* There is great boldness in this statement. Can those who have so solemnly sworn to its truth, *prove* that before the present century the majority of persons called Particular Baptists held that Christ made atonement "*for the sins of the whole world*;" (Gould, III. 7) and deemed this a part of the doctrine of pr. redn.? It is believed to be wholly impossible. ED.

*Afft. XIV. for defts.—Afft. of JOHN GOODERSON. Filed July 22, 1859.* "The contents of my answer...are true."

SEC. VIII. CROSS-EXAMINATION AND RE-EXAMINATION OF SOME OF PLTFS.' WITNESSES BEFORE MR. KENYON S. PARKER, ONE OF THE EXAMINERS IN CHANCERY.

After the depositions, on both sides, had been filed, the rules of the Court permitted each to summon the witnesses on the other side to be *cross-examined* upon their depositions. The pltfs. resolved not to exercise this right. But some of the defts. resolved to do so, and summoned the ministers residing in and near London, and in Suffolk, who had made affidavits, and also Mr. Edmund Hastings, one of the members who was excluded in 1847, to be cross-examined. Mr. Norton heard that vain attempts (but that they were vain is as little remarkable), had been made, to serve a summons upon him also. Though not actually summoned, he attended, as desired, but nevertheless was not cross-examined. The days occupied in this cross-examination were the 26th, 27th, and part of the 28th of January, 1860. These were insufficient, and the next day or days which were not already assigned to cross-examinations in other suits, were fixed on for cross-examining the other witnesses who had been summoned. A few days later, however, the defts. abandoned the intention of pursuing the cross-exn. farther; so that the whole of the proceedings, permitted or necessary, before the case could be entered by the pltfs. for hearing, were thus closed.

This cross-examination, instead of shaking, confirmed and strengthened the affidavits of those who were examined. The only *seeming* advantage gained from it by the defts. was this. Their junior counsel, Mr. Marten, read to the witnesses certain passages which they had not heard of till then, by Dr. Owen and Mr. Kinghorn, which *seemed* to convey a meaning which Dr. Owen certainly did not, and Mr. Kinghorn probably did not mean to convey, and by this kind of surprise, he made it appear that neither Mr. KINGHORN, nor Dr. OWEN held the doctrine, which the pltfs. call PARTICULAR REDEMPTION. These extracts, and one read from the works of Mr. Andrew Fuller, are referred to at pp. 72, 73, preceding.

The whole of the cross-examination was conducted by Mr. A. G. Marten, junior

counsel for defts. Gould and the Five Trustees who answered jointly, and the re-examination by Mr. George Lake Russell, junior counsel for the plffs. Mr. Gould and Mr. Norton were present during the whole of the examinations. The Examiner recorded the statements made. The following is the substance of them.

Jan. 26 and 27. Mr. JOHN FOREMAN, Mr. SAMUEL MILNER, Mr. GEORGE WRIGHT, Mr. JOHN COOPER, and Mr. SAMUEL COLLINS, cross-exd. separately.

All said, in answer to the questions put to them, that a Pr. BPT. CH. *consists exclusively* of Bpts. who hold the doctrine of pr. redn., as their affts. had defined it.

As to phs. 6, 7, 8, Ans. III., of deft. Gould, all said that *Redn. and atonement* are "*co-extensive*." Also that pr. redn. is *not*, as Mr. Gould alleges it to be, "the doctrine that the atonement made ...by Christ, in point of *sufficiency*, was infinite, and made for the sins of the whole world." Mr. FOREMAN said, "Atonement [is] the price paid; and redemption the purchase made by it.... The atonement was as *particular* as the redn.... The atonement was not in point of *sufficiency* infinite." Mr. MILNER said, "Redn. is a price paid for our deliverance,... just as a person would *redeem a mortgage*;...atonement is a sacrifice made for sin ..for the reconciliation of the offending party... [Mr. Gould's] definition of the atonement is the doctrine of *General*...not of *Particular* Baptists....The atonement is *sufficient* only for the persons to whom it will be applied *efficiently*." As to the *capability* of the death of Christ to make atonement, he said, "The atonement might be infinite in its nature....Christ was God and man, and [it] consequently partook of the virtue of his Divine nature, as well as human; but [it] was limited by the purposes of the Almighty." Mr. WRIGHT said that in ph 8, the terms "Applied by way of redn.," seemed to denote that "Atonement was the fact, and redemption a contingency." He added, "I should say that both are inseparably involved in the death of Christ....As an atonement, [it] *expiated or purged away* the sins of God's elect, and by that means *redeemed* them from the curse of the law. At the time the *satisfaction* was made, the redn. was obtained. I say that the atonement was made only for the elect." Mr. COOPER said "Satisfaction to the Divine law and justice [is] made by .. Christ...for particular persons,

providing for...the *application* of Divine mercy to those" persons. "Atonement is a judicial *reconciliation* of the objects of mercy;...redn. is a judicial *purchase* or *release* of [them] from the consequences to which they were exposed." Mr. COLLINS said "The atonement was not made for the sins of the whole world, but only for the elect of God."\*

As to phs. 41 and 42 of Answ. III. by Mr. Gould; the one containing part of a letter by Mr. Kinghorn, dated May 11, 1826, and the other, extracts from Mr. A. FULLER, and Dr. J. OWEN, on ATONEMENT and REDEMPTION. Mr. FOREMAN, Mr. WRIGHT, and Mr. COOPER in answer to questions respecting all *three* extracts, and Mr. MILNER to questions respecting those from Fuller and Owen, said, that they would not consider Bpts. who could subscribe to such views, to be Particular Baptists. Mr. Collins declined to answer a like question as to ph. 41, on the ground of "not having had an opportunity of considering the statements contained in" it; but said that he should not esteem "a person a Pr. Bpt. who considered that the *atonement* was sufficient for the whole world."†

Mr. FOREMAN was asked whether "according to [his] interpretation of the atonement, there should be a *free proclamation of the gospel to all men*?" He replied in the affirmative, and said, "I consider that if all men had accepted the gospel, all men would be saved." The editor believes that this question was not repeated in the course of the cross-examinations. Mr. Gould, Ans. III. ph. 7, speaks of an atonement "made for the sins of the whole world," as "admitting the free proclamation of the gospel to all men."

Mr. Gould's definition of OPEN and

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\* Mr. Gould, in his sermon of June 3, 1860, p. 19, describes these views as "*monstrous bigotry*," which proves his utter *rejection* of them. And yet is it not proved that these are views for the maintenance of which this trust was founded? Ed.

† For the extracts, and for remarks on them, see pp. 72, 73, preceding. What Dr. Owen called particular redn. is precisely the same doctrine as that which the above witnesses call so. See p. 79. And Mr. Kinghorn, also, though his use of the word atonement is not strictly correct according to their view of the doctrine, yet said that "in point of *design*, it was" *made* for those who were given to Christ; not for the whole world; and in this limitation of it he agrees with them, and differs from Mr. Gould's definition of it. Ed.



STRICT CMN. in Answ. I. 29, 33. were admitted *by all* to be correct, to a certain extent; Mr. MILNER added that he did "not recognize a cgn. practising open cmn., as a *cgn. of Pr. Bpts.*" Mr. COOPER said that the term open cmn. "might be applied to *other cgn.*, but is generally, though not exclusively, applied to Pr. Bpts." Mr. COLLINS said, "I apply the term strict cmn. to *membership*, as well as [to] cmn. at the L's. table."\*

TRANSIENT CMN. All said that their respective churches received to transient cmn. with them the "members of *churches of the same faith and order.*"

TERMS OF MEMBERSHIP AND CMN. ALL said that they or their chs. would not receive to membership or church-cmn. persons who *do not hold particular redn.* as defined by them; nor persons *unbaptized*; nor persons *practising open cmn.* Mr. FOREMAN said "he would exclude from cmn. a member of any cgn. *holding... open cmn.*" Mr. MILNER would not receive a person to cmn. "unless he held the doctrine of strict cmn." Mr. WRIGHT said that "if a person *holding open cmn.* came to [him] with a statement that he was a *member of a Pr. Bpt. ch.*, [he] could not refuse to receive him at cmn. at the L's. table." Mr. COOPER "would not admit a person to [his] ch. who *practises open cmn.*" Mr. COLLINS said "I should refuse to receive, to the L's. Spr. a member of a mixed cmn. ch."

ARE OPEN CMN. CHS. TRUE CHS.? Mr. FOREMAN said, "I might call the members of a ch. practising open cmn. Christians, but I could not call them a ch. duly organized, or a ch. at all." Mr. Milner said "I do not mean to say that I should unchurch, or unchristianize, a ...ch, who do not hold strict cmn., but I should say they are not walking orderly,...they are pursuing a practice forbidden by the word of God." Mr. Wright said "strictly speaking, I should not call it a ch."

THE DIFFERENCE BETWEEN PREACHING AND THE L'S. SPR. Mr. Wright said, "I

should not object to preach in any ch. or cgn. whatever."

CMN. WITH A CH. WHICH PRACTISES SOMETIMES OPEN AND SOMETIMES STRICT CMN. Mr. Wright said, "I should be sorry to sit down at the L's. table with a ch. [which does so]. I should be sorry to sanction such a practice by my presence, because I think I am bound to abstain from the appearance of evil."

THE LONDON BOARD OF BAPTIST MINISTERS. Mr. MILNER said, it "is confined professedly to Pr. Bpts. I would not, as a general rule, admit all the members of the Board to communicate, but I would admit some of them."

THE SUFFOLK AND NORFOLK ASSN. Mr. COOPER said: It has "existed about 29 or 30 years. The cause of secession" from the Old Suffolk and Norfolk Assn. "was a difference in doctrinal sentiments in relation to the question of pr. redn., the universal sufficiency of the atonement, and other collateral points; not at all on the question of cmn. at the L's. table; that has never been mooted." The old assn. "was exclusively composed of chs. of the Pr. Bpt. denomination, and adhering to the practice of strict cmn. The chs. that seceded held that atonement and redn. were co-extensive. Some or most of the chs. that remained held the universal sufficiency of the atonement; and some of them dissented from that doctrine, and held with us, but remained with the old assn., though only for a short time."

Mr. COOPER said, as to THIS CH. at Norwich, "I think [it] had the credit of being the stronghold of strict communion principles up to the death of Mr. Kinghorn, nor did I ever hear that any member of that ch. dissented from the principle and practice of strict cmn. until after that time."

All the above witnesses after being cross-examined were re-examined, and declared their firm adherence to what they had said in their affidavits.

Jan. 28, 1860. Mr. EDMUND HASTINGS. HIS ADMISSION TO MEMBERSHIP. "I became a member of [this ch.] about 1824. ...I attended on the minister [Mr. Kn.] for some time previously, and heard him preach; and a deputation waited upon me to hear my opinions." "Before my admission, I made before the ch. assembled, a *profession of faith*, in agreement with the sentiments which were held by the minister and... ch. at that time. [It] was made verbally, not in writing...I was asked...

\* Mr. Gould's definition of *open cmn.* was so constructed as to limit the meaning of the term to the L's. Spr., instead of including *membership*; and so also as to imply that the presence of Particular Baptists is necessary to the practice of open cmn., and that the practice is consistent with the principles on which "*cgn.* of Pr. Bpts." are founded. His definition of *strict cmn.*, was defective on account of not applying to *membership* as well as the L's. Spr.—ED.

my view of *..baptism,..* and my view of salvation; whether it was *by grace entirely*. I answered the questions satisfactorily, and was admitted to membership on being baptized, which was first required by the ch." "Till leaving England, about three years before Mr. K.'s death,..I scarcely ever omitted a ch. meeting when others were admitted. The same practice was observed" in their admission, as in "my own."

MR. COZENS AND OPEN CMN. "I recollect only one discussion about open and strict cmn. taking place;" that is, during the time between 1824 and his leaving England just before 1830. This discussion "was respecting Mr. Robertson, mentioned in ph. 5 of my afft. Mr. Kn. was absent; and Mr. J. Cozens, the elder,...proposed that [Mr. Robertson] should be admitted to the L's. Spr. without being admitted to the ch. It was stated that he had been baptized by Mr. Kn. Upon this proposal being made, there was rather an angry feeling manifested, and he was refused cmn. because he had not come to be examined before the ch., as to his Christianity on the one hand, and as to his eligibility on the other. He did not commune..."

OCCASIONAL CMN. "Persons were not admitted to cmn., except on letters from their pastors, unless they were known to

members of our ch. The names of the proposed communicants from other chs., were mentioned by the minister after [public] service, and previously to the ceremony of the L's. Spr."

OPINIONS OF THE MEMBERS as to cmn. "I do not know that there was a difference of opinion with respect to ch.-cmn. amongst the members of the ch. during Mr. Kinghorn's ministry, except as regards Mr. Cozens and Mr. Theobald. They held different opinions from other members; they advocated open cmn., and there was a report that other members did also, but I did not know it personally. And I believe they were *very few*. I had personal communication with very few of the members. The subject was never mooted in a church-meeting except in the case of [Mr.] Robertson, that I recollect."

ON RE-EXAMINATION, said, "Mr. K. during my attendance at his ch. was always strongly opposed to open cmn.... I think that it is an essential requisite to the constitution of a Christian ch., and cannot be violated without transgression. ..I have been *excluded* from..ch.-membership, because I could not commune conscientiously with persons who tolerated open cmn. This was in Mr. Brock's time....I adhere to the statements in my afft."

#### PART IV.—THE HEARING, ON APRIL 30, AND MAY 1, 2, 1860.

Mr. ROUNDELL PALMER, Q.C., after naming the Relators, Pltfs. and Defts., and stating the object of the suit, said that on the TERMS of the Deed of 1746, two questions arise: "*What are Particular Baptists? and What were the tenets, principles, and usages of this particular congregation of them?*"

I. WHAT ARE PARTICULAR BAPTISTS? As BAPTISTS he described them by their "fundamental tenet" as to baptism, and said that in their view "all other persons are unbaptized." The term PARTICULAR, he said, distinguished the Calvinistic, from the Arminian Baptists, and denoted their view of "atonement and redemption;" which was that Christ died, not for the redemption of "all mankind, but of a certain definite number of particular

persons, known theologically as '*the elect*,' and that he made the salvation of those persons, absolute, certain, and indefeasible; dependent on no condition whatsoever," while the Arminian or General Baptists, held that redn. "*was potentially, not actually, common to all mankind.*"

THE CH.-GOVERNMENT, he said, of Particular Baptists, though their body was distinct from the persons "commonly called Congregationalists or Independents," was, like theirs, OF THE CONGREGATIONAL ORDER; of which "the fundamental principle is, that every congregation is *absolutely independent*, in point of authority and jurisdiction, of every other;" and though individuals, called messengers, are sent by these independent cngs. to assemblies, these as-

semblies "have not in any respect the character of a representative body; they claim no office or authority; all they do is to give advice, or to give expression to what may happen to be the prevailing sentiments of the persons who come together from different cgnos., from time to time."

Mr. P. then referred to "MEMBERSHIP among the Pr. Bpts.," and to "OCCASIONAL or TRANSIENT MEMBERSHIP," or communion, to which he said, "persons who do not usually reside in the place where a particular cgn. exists," are received, upon producing "proper testimonials and certificates," giving such proof as is required "of agreement with the principles" of that body. "Now, sir, we assert," he said, that the LORD'S SUPPER "is an essential part, indeed is the essence, of ch.-cmn., and is not capable, consistently with the principles of the body, of being administered to any but those who are full members, or, at least, have the capacity to become so, if they were permanently residing in the place: and, as a necessary consequence of that position, that neither membership nor cmn. can, without a violation of the principles of this body, be imparted to any who are....not recognized as baptized by the principles of the denomination."

He thought that this appeared "beyond all doubt, from a mass of testimony, of which [he would] give some specimens." But there had "been some few persons," and the other side alleged, "some few cgnos., assuming the same name of Baptists, or Particular Baptists, who [had] advocated a larger latitude" both as to membership and the L's. Spr., and who, he said, "in the manner in which they have advocated that opinion, appear to have gone very far to subvert the fundamental basis of this, and perhaps I might add, of any other, distinctive denomination."

He then proceeded to give "AN OUTLINE OF THE GENERAL HISTORY OF THE BODY."

The practice of Mr. SPILSBURY'S CGN. was, he said, "a matter of controversy," and he did not intend then to "enter into the question of fact, whether Mr. S. was or was not what he is described as being."

But from about 1643, when Mr. KIFFIN'S CH. was avowedly established on the principle now called strict cmn, "no one," he said, "who reads the evidence, can, I think, entertain the smallest doubt that from that time forth, with very few and rare exceptions indeed, that was

the universal practice of all cgnos., passing under the name of Bpts."

In the infancy of the denomination, there were some bodies, "apparently formed on another model," which, "having become more or less leavened with the opinions of Pr. Bpts., had never cast out the mixture of other opinions originally in them. Such was the case with the cgn. of [Mr.] JESSEY...the earliest advocate in theological literature of...free cmn.,...connected with the Independents." He became, "before 1645, minister of...the first Independent cgn., founded originally under [Mr.] Jacob." In 1645, he "adopted the opinions of the Pr. Bpts.," but retained "a position...in which it was impossible to exclude those...who continued to hold different views," and advocated "a larger basis than that on which....the Pr. Bpt. cgnos. were actually formed."

In like manner, [Mr.] TOMBES, a benefited clergyman of the ch. of England, adopted, in 1646, the opinions of the Pr. Bpts., and seems to have carried on teaching in what would be called, ecclesiastically, a very irregular manner, while he occupied that anomalous position. He wrote books advocating that species of latitude in ch.-cmn., of which he was a living example...."

"The celebrated JOHN BUNYAN,... about 1672, had his own chapel, ...at Bedford, registered, not as a Baptist, but a Congregational chapel," and "said that ...not only members of the Ch. of England, Independents, and Presbyterians, but even good Roman Catholics were equally welcome...to be received on the footing of complete membership in his ch. He was a great man, no doubt, but cannot be considered an example of the denomination of Pr. Bpts." These were "anomalies."

"Both Mr. SPILSBURY and Mr. KIFFIN joined" in the LONDON CFSN. of 1646, in which "the necessity of baptism is stated, as a part of the definition of the visible ch. In the 33rd article, (put forward by the defts. themselves as favourable to their view) they [the chs.] define the members of the visible ch. as being 'baptized into that faith,'" [&c.] a form of definition which seems absolutely to exclude unbaptized persons from the position of members of the ch....There is nothing whatever in [the cfsn.] that countenances the notion of universal cmn. with all persons calling themselves Christians."

By THE ASSEMBLY of 1677, notice was taken of some individuals,—(the defts. "would say cgnos., I do not think that

that is by any means clear), at all events, *individuals*, towards whom [it] practised a certain degree of intentional abstinence and forbearance, in avoiding to state specifically the views that might be entertained by the assembly as to points on which those individuals differed." Mr. P. read from the CFSN. of 1677, part of chaps. 28, 29, 30, on baptism and the L's. Spr., in which the L's. Spr. is said to have been instituted by Christ, "to be observed in his churches unto the end of the world." He read also passages from the APPENDIX: one, stating their wish to show by the cfsn. their agreement with other Christians "in the fundamental articles of Christianity;" another, saying that they differed from Pedobaptists not only on baptism, but also in such "circumstances as have a necessary dependence" on the observance of it; and also the passage given on p. 58, col. 1, preceding, as to individual differences on cmn., beginning, "We are not insensible;" which passage, Mr. P. remarked, explained their reason, for not "including a dogmatic article on the subject" of cmn. in the cfsn., to be, not that the strict "can waive or compromise their strictness, but that they claim no authority in that Assembly to impose it as a law upon any who dissent therefrom."

Mr. P. then referred to the *General Baptist Cfsn. of 1678*, called an Orthodox Creed. [This was no part of the evidence adduced by plts., but it was mentioned in Mr. Gould's first Ans., pbs. 74, 75, as a Pr. Bpt. creed, and Mr. P. misconceived it to have been "*generally received*." It denies expressly the right of unbaptized persons to membership or the L's. Spr.—ED.]

THE MASTER OF THE ROLLS. "That, as you state it, does not differ from the doctrine of the Ch. of England."

Mr. PALMER assented, and said of *that period*, "I should greatly doubt whether it was not the *universal creed of every Christian denomination*; because they were all founded on positive adherence to specific doctrines; and none of them separated from the Ch. of England on the ground of any dissent from the position that baptism was essential to the privilege of admission to Christian churches, although they might not have considered that salvation would be refused to the unbaptized."

THE MASTER OF THE ROLLS, said he had heard nothing yet "about the doctrine that [Christ's death] was only on behalf of a select few, who are called the elect." Mr. PALMER replied: "I do not

propose to read to you myself passages in detail on that subject, because the controversy on it in the evidence...is a refinement which I do not think it necessary to enter into...The defts. in their ans. say that there is a distinction to be taken within the pale of that doctrine, as it were; that is to say that some among them, although believing...that redemption is only for the elect *quoad* [as to] the efficiency of Christ's suffering, yet hold that *abstractly* it was sufficient for the salvation of all the world."\*

Sir H. CAIRNS, Q.C., the leading counsel for Mr. Gould and the Five, said that "the origin of the controversy" was the insertion of "Limited" in the Amended Bill; and that thereupon both sides went "into evidence at considerable length on the question whether 'particular' and 'limited' redn. are synonymous terms or not." [But on reference to the original Bill, the term "limited" was found *there*; and his explanation of the "origin" of the length of Mr. Gould's third answer, was proved to have no foundation. Besides this, Mr. Gould said that "limited redn." had *never* been used by Pr. Bpts., and therefore he could not pretend to give evidence as to what had been its meaning. After the suit Mr. Gould ascribed the course he took in his third answer to a discovery of Mr. Norton's views. See p. 68, col. 2, preceding.—ED.]

Sir H. CAIRNS, said also, "about the meaning of particular redemption, I think we are all agreed."

Mr. PALMER said, "I believe so.\* Therefore I propose to confine chiefly what I have to say, to the *other points*, on which your Honour will find that the difference becomes important and practical."

"The Assembly of 1689," at which "the two ministers of this particular cgn. were present...adopted the...declarations...made by the Assembly of 1677."† They recognized "the existence of some differences, and that they had no authority as between particular chs. to settle them....It is quite consistent with the case on both sides, that the cgns.... which adhered to the strict principle of Pr. Bpts., did not claim, and could not

\* Mr. Palmer does not seem to have noticed that Mr. Gould did not speak of *abstract sufficiency* merely, but that he connected sufficiency with *actual purpose*, and that his definition of pr. redn. was essentially the same as Mr. Palmer himself had given at the beginning of his speech as that of general redn.

† It was not proved to have adopted the *Appendix of 1677*. See p. 59, preceding.

claim, authority to control the principles of those (however few they may have been) who held different views. It is for your Honour to say *what was the principle of the particular cgn. with which we are now immediately concerned.*"

Mr. P. then referred to some WRITERS OF AUTHORITY in proof that "*according to the principles of the denomination of Pr. Bpts., properly so called, the unbaptized were excluded from ch.-membership and from ch.-cmn.*"

He first quoted passages from GRANTHAM'S CHRISTIANISMUS PRIMITIVUS, original edn. 1678; book III. pp. 33, 34; bk. IV. pp. 171, 173; and bk. IV. chap. II. sec. 1, p. 178, stating that the baptized chs., both General and Particular, maintained at that time, both *in principle and practice*, the necessity of baptism to ch.-membership and cmn. He referred to other passages at pp. 175, 177, and 178. Of the passage at p. 178, he said "it bears on two points; first...the *inadmissibility* of the unbaptized to the table of the Lord; secondly, *the relation of that divine ordinance to ch.-cmn.*; from which [defts. say] it is separable." [See ph. 31, at p. 55, preceding.]

He next read passages from Dr. WALL'S History of Infant Baptism; pp. 431, 560, of edn. II. 1707, remarking that he is "a standard authority of the Ch. of England, on this question of baptism;" and that this his "Treatise on Infant Baptism, is perhaps the most learned and able that belongs to our ch." The passages read were, "They do many of 'em hold it necessary to renounce cmn.," &c., and "I know that the Antipædobaptists do not admit to the L's. Spr." &c. [See ph. 21, proof 6, at p. 79; and end of ph. 72, at p. 58, also p. 82, col. 2, preceding.]

Next a passage from Dr. GALE, "the champion of the denomination," who answered Dr. Wall in 1705 and 1706. He said "of the Antipædobaptists...and of Dr. Wall...Both sides agree, Baptism is a necessary initiation into the Christian ch.' Exactly as your Honour said. That is the view of the Ch. of England, represented by Dr. Wall, and of the Baptists, represented by Dr. Gale." [See p. 83, preceding.]

"Mr. D. NEAL....[in] his history of the Puritans, published 1731—1738, vol. II. p. 280, says, the Pr. Bpts. "would hold cmn. with none but such as had been dipped." [See p. 83, preceding.]

Mr. CROSBY'S Hist., vol. II. p. 341, was also referred to. [An error, instead of III. 44. See p. 83, preceding.]

Mr. Palmer next referred to WITNESSES ON THE SIDE OF DEFTS. Among those were office-holders, now living, of "THE PARTICULAR BAPTIST FUND," instituted, in 1717, for "purposes of pecuniary assistance and relief to members of this deuomination...Those gentlemen state (which I have no doubt is quite true)...that they now admit to the benefit of it...cgn.s," practising mixed cmn., and they "flatter themselves...they are not deviating from the principles of the body which they represent." Mr. P. then read from its *original rules*, a definition of what was meant by "Particular Baptists," in the rule which says, it "shall be for the use...of those chs only that go under the denomination of Pr. Bpts." The definition is, that "by Pr. Bpts. are intended those that have been *solemnly immersed*," &c., and who profess, among other doctrines, that of "*pr. redn....according to the Cfsn. of .1689.*" "I think, therefore," said Mr. P., "whatever may have been the more recent practice in the distribution of this Fund,...that if we look back to the original foundation, we shall not discover, in that, anything favourable to the contention of the defts."

"There is pretty strong evidence from the mouth of the *most distinguished opponent of...strict cmn.*,... Mr. JOHN BUNYAN, that his views on the subject were *not those of the [Pr. Baptist] community in general.* He. calls himself *singular* in respect of them," (see Works, vol. II. p. 618,) and said that for sixteen years "*the brn. of the baptized way...have sought to break us in pieces merely because we are not, in their way, all baptized first.*" pp. 616, 617.

"A Mr. BROWN, [about] 1778...condemned the chs. which he called '*baptized churches*' for making immersion on a *profession* of faith essentially necessary for constituting a true ch. of Christ."

"Mr. BOOTH a leading champion of the orthodox doctrine, wrote a book in 1778, intitled '*An Apology for the Bpts.*,' designating [those who held strict cmn.] by that name, and it appears by the evidence that the holders of strict cmn. *were always called 'the Baptists,*' until about that time, when the expression '*Strict Baptist*' came in, and has been used in consequence of the other doctrine being held and advocated by a greater number of persons." Mr. R. Hall, "the ablest and most distinguished [of the] modern, as Mr. Bunyan was of the earlier opponents" of strict cmn., "admits that

Mr. Booth had, in the belief and practice of the chs. of his denomination... fair warrant for the title" he gave to his defence of strict cmn. Mr. P. quoted his Reply to Mr. Kinghorn, 1818, p. xii, "The prevailing system," &c. "The few chs.," &c. See p. 83, col. 1, preceding.

"In the latter part of the 18th cent., ...several persons, some of whom appear to have held SOCINIAN opinions, came forward as the champions of the free-cmn. principle...They were opposed by Mr. Booth and by Mr. Buttfield."

In the present cent. Mr. R. HALL, "took a very prominent part in advocating, upon the largest basis, the principle .of free-cmn, and was opposed as energetically by Mr. Kinghorn, ...minister of the pr. cgn. now in question for forty years and more, from 1790 to 1832. ...Mr. R. Hall, in our evidence, is stated not to have been a Pr. Bpt...On the other side it is said he was."

Sir H. CAIRNS. "The relators say that every person who does not agree with them is not a Pr. Bpt."

Mr. PALMER. In Mr. Hall's Life, p. 160, "his own words are, 'I believe firmly in general redemption. I often preach it.'"

"The LAST FACT bearing on the general state of opinion on this subject, which I would mention, is this; that *latterly Mr. R. Hall's views found more acceptance than similar views had ever done before*; and your Honour will trace in the history of this cmn. question, some analogy to that which occurred in the case of LADY HEWLEY, ...where, in the absence of tests, there was a constant tendency to change, until the change at last became very extensive, if not in that case almost universal...But your Honour will find remarkable testimony...to the *inconsistency* of [free cmn.] with the ancient doctrine, and the maintenance of that doctrine by the more ancient churches, in ph. 32, of Mr. Norton's first aft." [He then referred to the Model Deed of the Baptist Building Fund, and the statement as to what it would be "necessary" to insert in case free cmn. were practised; see p. 80, preceding.] "That appears to me to be pregnant with evidence that according to the usage of those bodies down to [that] time, deeds *expressed in general terms* were not understood to authorize...that practice, and that in order to make [it] an authorized, safe and regular one, it was necessary that the deed should provide expressly, and give power for that purpose. And I think those latter words, [providing for that practice] illustrate the argument pretty

strongly: 'although such persons shall not be of the denomination aforesaid.'"

THE MASTER OF THE ROLLS. "What I must look at principally is: *What was the doctrine at the time of the Founders?* but that may have got considerably modified in the course of 112 years."

Mr. R. PALMER. "No doubt: but your Honour will find that...it is an *admitted fact*, [and one which] *stands out in broad relief, without the possibility of doubt, on the whole of the evidence*, that until 1845, there was not the slightest deviation in this cgn. from the principle and practice of strict cmn., most strictly understood."

II. "WHAT THE PRACTICE WAS IN THIS PARTICULAR CH.

"We have the CHURCH BOOKS from about 1687, downwards. We find at the beginning of [the first] book, the ARTICLES and COVENANT ... signed by\* ... persons who were then members." Mr. P. while reading ARTICLE IX. from deft. Gould's Ans. I. ph. 89; see p. 59, preceding, said, "Therefore on the face of the arts. of this particular .. cgn., the visible ch. is defined as *consisting of 'baptized believers* ... who voluntarily agree to walk together...in *all the laws and ordinances of Christ's house*.'" He read also part of Art. X., in which the L's. Spr. is said to have been "delivered to the ch.," and said, "There appears to be a Covenant on that basis, [the basis of the articles]; and the next entry is 'The number of the names of the *baptized ch.*...'; and all the names of the members are given. That title of '*the baptized ch.*' ...will be found in the evidence to be repeated from time to time in the years 1687, 1723, 1729, 1738, 1766, 1779, 1836, and 1837....Then we have lists of admissions from that time down to the present, showing that the practice of the admission of members has been uniformly maintained in it. And, on the subject of admission, not only to all the privileges of *members*, but to the *cmn.* [in the L's. Spr.], which the deft. desires to treat as *separate from the other privileges*, we find...admitted in the Ans., at ph. 111, 'that from a period long anterior to... 1746,' &c. (see p. 62, preceding). "Then at phs. 114, 115, deft. says, 'I believe that from some time before 1793...the... cgn. did not practise open membership or open cmn.'" &c. (See p. 62, preceding.)

"In addition to that, sir, we have evidence as to the sense in which the terms

\* Their names are underwritten, but not by the members themselves. ED.

'communion,' and 'admission to,' and 'exclusion from communion,' were used in this ch." He then read a passage from the beginning of ph. 20 of Mr. Norton's first afft., see p. 78, preceding, including the ch. minutes there mentioned as far as Nov. 1718. He read also from ph. 17 of that afft. (p. 78, preceding) the ch. minutes of Sept. 22, 1698, as to exclusion for worshipping with the *Quakers*; also from ph. 9, the minute of 1753, declaring it unlawful to sanction the doctrines of the *Methodists*; and from ph. 10, the minute excluding T. LAMKIN, partly for "pleading for infants' baptism."

Sir H. C. said there was another reason for his exclusion,—excessive drinking.

Mr. P. "Of course the mention of his pleading for infant baptism is not destroyed by" the mention of that also. "I think it adds strongly to it, because having so good and sufficient a cause as my learned friend mentions, it is obvious that unless they had thought seriously of the pleading for infants' baptism, they would scarcely have added that, in order to increase the strength of the accusation."

He referred also to the requirement, in 1714, of agreement with this ch. "in doctrine, worship, and discipline," as to the old members of the *Pulham* ch., mentioned in the Bill, ph. 14, and the exclusion in 1724, of *S. Taylor* for returning to general redemption, Norton Afft. I. ph. 10; also to proof, in ph. 22, that this ch. admitted, in 1836, that a mixed ch. was not a "baptized ch.," nor "of the same faith and order" with itself; and that the plaintiff, S. Wilkin, objected to send a dismissory letter to it.

### III. THE INNOVATIONS.

"Mr Brock became minister in 1833, ...on the express terms...that he undertook... 'not to moot the question of open cmn.'" there; (p. 8, preceding); "but notwithstanding...in 1845, acted in a manner which I am unable to reconcile with that engagement. He, affecting not to interfere with the constitution of the ch., but to leave it unchanged, determined to introduce, in addition to the ordinary cmn." service, a free cmn. one, (see p. 9, preceding). "That was strongly objected to by many members. ...Mr. Brock admitted on various occasions, that to change the constitution of the church by introducing persons...who were not baptized persons, at the ordinary cmn. on the first Sunday, or generally, would be in fact to drive out of the ch. those who conscientiously thought they could not be admitted.

That proposition had been very strongly put in some of Mr. Kinghorn's writings, cited [in the evidence]. But Mr. Brock himself admitted it." [See extract from his letter of March, 1845, part of which Mr. P. read, at p. 8, preceding]. "The majority acquiesced, but some did not, and they, about 11,\* I think, were obliged to leave the cgn.; but nothing more was done in Mr. Brock's time."

Mr. P. then referred to the concession made at Mr. Gould's ordination in 1849, that the ch. had "for many years" been strict (pp. 15, 79, preceding); and to the resolution in Jan. 1857, of Mr. Gould and those who agreed with him, that *E. Bayes* be admitted as a member, unbaptized (pp. 15, 84, preceding). It thus "became a question, who were to be excluded, those who adhered to the old orthodox practice, or those who introduced this change." She was "subsequently baptized, [and] all parties might have condoned" this irregularity; but it "was followed up on the 11th of March, 1857, by a general resolution passed by Mr. Gould and the majority agreeing with him, for open cmn.; and on the first Sunday in April, 1857, that practice was introduced, which has since been adhered to, indiscriminately admitting all kinds of persons, Methodists, Independents, members of the Ch. of England, and others; in fact the denominational character...is entirely gone; and it is attempted to JUSTIFY that,...by falling back on the general principle advocated by R. Hall, Bunyan, and others, which goes the full length, *without distinction of ch. cmn. and ch. membership*, of advocating the inherent right of everybody to ch.-membership, *who professes a hope of salvation through Christ, whether he be baptized or unbaptized, and whatever may be his tenets*. That, I submit, utterly destroys the denomination. They tell us in the Answer, that that has been acted upon by several cgn.s. to the full extent of admitting to [full] ch. membership those who do not belong to the denomination," but "that others, like themselves, in the present stage, have made a distinction, and have stopped at cmn. in the L's. Spr., and have treated that as distinguishable from membership generally. But it is quite plain that this is a distinction which, on their own showing, rests simply on sufferance merely, as long as they

\* Others did not acquiesce, but merely consented not to agitate the church further on the subject at ch.-meetings, feeling that it was useless; see pp. 64, 65, preceding. ED:

choose to adhere to it; and the principle on which they have acted, does not compel them to stop there.\* As your Honour might anticipate, that very thing which Mr. Kinghorn and Mr. Brock had foreseen, has happened; that the consciences of those who [adhered to Pr. Baptist cmn.] could not be reconciled to a practice which abolished altogether its denominational character... They were obliged to absent themselves from this cmn., to which others who were strangers were indiscriminately introduced."

"There was a proposition that some afternoon service should be appointed for those who were excluded from the cmn. on the first Sunday of the month. That of course they would not agree to, more especially as the communion on the first Sunday in every month, is that at which new members are admitted.

"Since that, proceedings have been taken with a view actually to exclude them;...and the question is, Which shall prevail, those who have innovated in this manner on the practice of the church, or those whom they claim a right to exclude and excommunicate, because they do not acquiesce in that innovation? The Information was filed on the 13th of May, 1858, in order to have that question determined; and I trust your Honour will think, when you have heard the evidence which bears out the statement I have made, that we are entitled to the relief, which we ask."

[Mr. Palmer's speech occupied about one hour and forty minutes in delivery. The whole of these abstracts of the speeches of counsel are from a verbatim report, corrected by counsel themselves.]

MR. GEORGE LAKE RUSSELL.

MR. RUSSELL, before reading a summary of the evidence on behalf of the plaintiffs, read phs. 15 and 29 of deft. Gooderson's Ans., to show that he, like the pl'tfs., was opposed to the innovations. (See pp. 64, 67, preceding.) In Mr. Russell's remarks on the evidence, he said that he thought the defts.' "own admissions established this case against" them. Phs. 17 and 22, of Mr. Norton's first afft., were "a challenge to [his] learned friends to produce, if they could, [from] the church books," evidence that "any person [had been] ever admitted into the church" or to ch.-cmn. unbaptized; or that "this ch. ever violated the prin-

ciple that only those who are *qualified for full membership* are entitled to cmn....in the *U's. Spr.*" He referred to the phs. relating to *particular redemption*; and on ph. 32, said that if a free-cmn. ch. was to be called one of Pr. Bpts., then those of Independents, Presbyterians, and the Ch. of England were chs. of *Pr. Bpts.* also. On ph. 35, as to the name, Strict Baptists, he said, that "it was not until twenty-six years after the foundation of this particular church that we find any such term as 'Strict' annexed to the word 'Baptist.' Up to that time the word '*Baptist*' meant simply those who held strict cmn....Then, when you go to the deed of 1746, and find the word 'Baptist' used, it can only mean those who held strict cmn." Ph. 36, he said, "goes to the fact that strict cmn., in its principle, applies to doctrines, rules, and ch. government."

THE MASTER OF THE ROLLS. "Have they excluded baptized believers?" MR. RUSSELL said, "not...by force,...but those who...cannot conscientiously concur in that [free-cmn.] service, abstain from going there." HIS HONOUR said, "but then the unbaptized communicants would not partake of the communion of which the Strict Baptists would partake," [referring to the strict service offered to the strict members]. "You must make out to me that there is some injury." MR. RUSSELL said, "we have a trust for a particular class of religionists. The pastor and others...avowedly say they have a right to apply that for the purpose of a separate and distinct sect. According to the same principle, Mr. Gould may think it right to admit Mahomedans, or Buddhists, or any other persons to the ch....If they are not to be confined as the trust confines them, then they are to be at liberty to admit anybody, and everybody into the church, Mahomedans or others."

HIS HONOUR said, "I do not understand the principle on which they object to receive the communion *at all*. Assuming" that the admission of "persons who are unbaptized, made it impossible for them to receive the communion in this church, they had no option, but to retire, had they?"

HIS HONOUR, in reference to the res. of March 11, 1857, said, "What is meant by a *believer in Christ*? That seems to be a very vague expression. Does it mean a believer in the Divinity of Christ?" MR. Russell, shortly afterwards read Mr. Gould's words, "I shall always be ready to receive any man who professes to be a

† It compels them to go the whole extent of receiving all believers to full membership. Ed.



believer in the Lord Jesus," and said, "Your Honour will have to determine whether that is consistent with the trust in question before you."

HIS HONOUR: "*Anabaptists and Baptists* mean the same thing?" Sir H. C. said "*Anabaptists* was a term of reproach that was given to them in our old statute books, and which they took offence at."

HIS HONOUR. "What is the effect of their [the free-cmn. majority] declaring that they [the plaintiff members] are *no longer members of the church*? Cannot they attend the service?" Sir H. C. said, "They can attend the *preaching*, if they please." Mr. RUSSELL, "Just as your Honour or I might, but no more.... They could not *communicate* till they were restored." They would "not only be excluded from the *use of the chapel*," [as enjoyed by members], but "deprived of the benefit of all *charitable funds* annexed to the chapel."

HIS HONOUR said, "What I am looking at is, that you must show that you have sustained some injury. Assuming that a person commits a breach of trust, the *cestui que trust*—[the person interested in the trust] cannot complain of that, if it does him no harm." Mr. RUSSELL said that, by exclusion, the members suffered a "direct injury," they could "not attend the church-meetings;" nor "derive any benefit from any of the charities." Sir H. C. said, "our great anxiety is that they *should* attend. Our arms are open to receive them. We deplore immensely that they have gone away. And we should be delighted if they would come back again." He said as to their threatened exclusion from *membership*, that it was because they did "not attend the *communion*." Mr. RUSSELL said that exclusion from membership "is excommunication," the excluded could not "take a part in the election of a clergyman [minister]. All those rights which flow from membership are absolutely gone. The question for your Honour's decision is simply this, Whether this trust did, or did not, intend that *we* should have the benefit of it, or not. My learned friend says that *...to receive everybody*...is consistent with the trust. We say it is not. We say it is to be a *congregation of Particular Baptists*, and *none other*. My friend says he would be *happy to receive us* tomorrow; but he would only receive us if we admit that this is not a trust for that particular class, but...for all the world at large. What we ask at your

Honour's hands is simply a *construction of the deed*."

Mr. RUSSELL read the greater part of the afft. of Moore and others, as to the practice of the ch. in Mr. Kinghorn's time, and referred briefly to the other affts.

HIS HONOUR said, as to the PRAYER of the Bill, "You must tell me the decree you ask," Mr. RUSSELL said, "I ask for *the whole prayer of the Bill*." Sir H. C. said, "*Then that goes to the question of limited or particular redemption*."\*

Mr. THOMAS HENRY HADDAN.

Mr. HADDAN said on behalf of Mr. Allen that he lived at some distance from Norwich, knew nothing of the matter, had taken no part in it, and was willing to retire from the trust.

Mr. N. LINDLEY.

Mr. N. LINDLEY for Mr. Gooderson, said, that Mr. G. took "the same view of the doctrine and practice as" the pl'tfs., but "did not think it part of his duty to concur in the Information, [and] could not put in a joint answer with those to whom he [was] opposed."

SIR HUGH CAIRNS.

Sir H. CAIRNS appeared "for all the defts., except Mr. Allen and Mr. Gooderson." He said, "the question...in the view which I intend to submit to your Honour...lies in a very narrow compass; but it is impossible for me to...overstate [its] *importance*, whether...looked at with reference to [this] *cgn.*, or...the interests of the Baptist body at large.... The propositions for which I mean to contend,... [are] PROPOSITIONS OF FACT, and...OF LAW. The PROPOSITIONS OF FACT are these:— 1. That before, [in], and since [1746] a *cgn.* of Pr. Bpts. might, in entire consistency with its title to that name, adopt the practice of...open *cmn.* 2. That the question whether a...*cgn.* would [do so] was...to be decided by a majority... as [it] might, from time to time, think fit. 3. That a *cgn.* of Pr. Bpts. might adopt...open *cmn.*; ... afterwards, ... strict *cmn.*; and again...open *cmn.*, as before, and that all those changes might...and... did take place in Baptist *cgns.* without the slightest sacrifice of their title to be called '*cgns.* of Pr. Bpts.'"†

\* Mr. Gould has said "this part of the case against us was *formally abandoned*." See p. 68, col. 2, preceding.

† The question is not what a ch. *might* be,

"THE PROPOSITIONS OF LAW... are these:—1. That a gift of property to a Pr. Bpt. cgn., or, as in this case, to the cgn. of Pr. Bpts. at a particular place, for the time being, is a gift to [it] subject to all the consequences of the exercise of that power. 2. The fact that a cgn...has pursued one practice,...is consistent with the possession of power [and] right to alter that practice,...when the majority so think fit. 3. That this is peculiarly the case in a form of ch.-government, by which (the relators admit)...there is reposed in every cgn. of Pr. Bpts. absolute power\* for the regulation of its government and practice. 4. That the introduction of persons to open cmn., is not insisted upon as the right or privilege of the *persons introduced*,...but of the *cg.*"†

"We say that no person is or ought to be a *member* of this cgn., according to its present practice, unless...baptized."‡  
 "Further we do not contend for the right of *forcing* any members...who feel a conscientious scruple as to open cmn., to attend that open cmn., to which they object. We have offered them always...the opportunity of having, to the same extent which they ever had, a strict-cmn. service, at which none but members of the cgn. shall be present.‡

and yet be *called* a cgn. of Pr. Bpts.; but what *this* Pr. Bpt. ch. *really was*. For the trust is expressly for *it*, and *no other*. If it held baptism to be indispensably necessary to ch.-membership, and ch.-membership to be so to cmn. in the L's. Spr., these things cannot be altered without destroying its identity. The whole of these propositions, therefore, are irrelevant. If for such a reason free-cmn. Baptists might dispossess Strict Baptists of their property, any man might plunder his weaker fellow-man because their *common name is man*.—Ed.

\* They admit *independence*, not "absolute power," not power to alter rules held to be Divine, nor to apply property devoted to *strict*, for the uses of *free* cmn.

† The relators deny the right of *both*. If A. takes property belonging to B., and gives it to C., A. has as little right to *give*, as B. has to *receive*. The want of right in the one, is the want of it in the other. So the Relators deny the right both of the *cg.* to *introduce* the unbaptized, and of the *unbaptized* to accept their introduction to the L's. Spr., because *both* parties would thus invade the *right* of the strict members, to meet with the ch. *at all times*.—Ed.

‡ The defts. in various ways recognize all believers as being, or having a right to be, *ch.-members*; but here they say that no person "ought to be a member!" Why? This plea has helped to *exclude* the Strict Baptists

He contended that the liberty of the cgn. was "subject to this only, that they do nothing with that property which it is impossible for a Pr. Bpt. cgn. to do;" that "to admit to...the L's. Spr. persons who have not become *members*...is one part of their liberty," and that their liberty would be infringed, if the Court debarred them from doing so.

THE PRAYER OF THE BILL. A decree that only Pr. Bpts. are "*entitled*" to the benefits of the trust, would not, he said, meet the question. He admitted that there is "no such *title* in those who are outside the cgn.," but contended that there is "in the *cg.* *itself* the right and title as an *act* of courtesy," &c., to introduce to cmn. "a believer who is not a member." As to *excluding* the protesting members, he said, "if a breach of trust has been committed by us...the cgn. may have been wrong in excluding them from membership," if not, those members "have become subject to the rule of the cgn....that unless members shall attend cmn. at certain times, they shall be subjected to ch.-discipline," and are rightly excluded "until they shall withdraw the attitude of rebellion which they have assumed."

"THE PRECISE WORDS OF THE DEED OF 1746." He quoted three passages in which *this* cgn. "*for the time being*,"|| is mentioned.

THE INDEPENDENCE, AND LIMIT OF THE POWERS, of this cgn. "I agree that there is no power in this cgn., with reference to the enjoyment of trust powers, to do any act, or to change their constitution in any way, which would deprive them of the *name* of a Pr. Bpt. cgn."

THE EVIDENCE, TO PROVE THE ABOVE PROPOSITIONS OF FACT. I. "Confessions of Faith...made...by Assemblies of repre-

from the chapel, and left the free-cmn. members in *sole possession*. Again, in order to their defence, they had to declare themselves willing to practise *both strict and free cmn.*, two *opposite* systems at once; each claiming to be divine, and each practised as a part of *God's will*! But even this self-humiliation was not sufficient, they had further to say that the strict members, who formerly had a right to attend all meetings of the ch. for observing the L's. Supper, even if they had been held daily, had still opportunity "to the same extent they ever had," &c. Ed.

§ In 1746, even free-cmn. chs. did not admit to the L's. Spr. those whom they excluded from *membership*. Ed.

|| The words *for the time being*, must of necessity refer, not to any change of the *fundamental constitution* of the ch., but to change of the individual *persons* forming it. Ed.

sentatives from Bpt. cgn.s." which he would refer to, not as *binding* on the Baptist body at large, but "as the best evidence to show what was the general understanding and belief, at the time," as to whether "the question of open or strict cmn. [was] an *open question*—a question as to which cgn.s might differ, "and yet both be embraced *within the denomination of Pr. Bpt. cgn.s.*" II. "The General History of Baptist cgn.s." III. "Controversial writers on the subject."

Sir H. CAIRNS said that the evidence which his Honour had heard, related to *baptism*, not to *redemption*; to the admission to cmn. of believers unbaptized, who are "*exactly of the same faith in other respects as*" Particular Baptists.\* "There is at present," he said, "no allegation,...with regard to Mr. Gould, or any of the trustees, that they profess a doctrine on the subject of redemption that is not the doctrine of Pr. Bpts. I deny that they do, and I have heard no charge at the bar that they do."

1. LONDON CONFESSION OF 1644. Gould, Ans. I. phs. 52—64. "Among the signatures" to that cfsn. of "seven London cgn.s, was that of Mr. Spilsbery. We know that he was a warm advocate for, and professor of, open cmn., during the whole of the time he had his cgn. in London.† I derive this inference from the cfsn....On the question of open cmn. it is *silent*.‡ It does not decide the matter one way or the other." "Mr. Kiffin...separated or differed from Mr. Spilsbery on this question of open cmn., [and] left [his] cgn. on that point.|| After the separation...we find them agreeing to sign this cfsn. of their faith, although we have the clearest and most distinct evidence, that on this point, at all events, they were at variance.|| Therefore the inference is irresistible that it was considered by them, and...by those who signed this document,...an *open question*, whether open or strict cmn. should be practised by this body." He read arts. 33 and 39, from the edition of 1644, but made no allusion to the words "and *after* [being baptized] to partake of the L's. Spr.," added to art. 39, in 1646. Read also part of Pre-

face containing the words we "are all *one in cmn.*" He said that "with the definition of a visible church," as composed of visible saints...*baptized*, "we entirely agree."

Sir H. C. alleged that "there were *thirty-nine* Pr. Bpt. cgn.s. in London§ who did not join in...this cfsn." He referred to remarks by Baillie and Marshall, in Gould, Ans. I. ph. 64, [p. 57, preceding.]

His Honour said, "When was the word *Particular* first introduced?" Sir H. C. replied, "1717 is the date we assign... We have proved... that until [then]...the words used...were—'*denying Arminianism.*'"

2. THE SOMERSET CONFESSION OF 1656. Gould Ans. I. 65, 75; [pp. 57, 58, preceding.] Sir H. C. said, "The only thing to be observed upon it is...[that it] is *silent* on the subject."¶

3. THE CONFESSION OF ASSEMBLY OF 1677. Gould, Ans. I. 66—73; [pp. 57, 58.] Sir H. C. said that though the churches from which the "elders and brethren" came, are called in the title, "Cgn.s. of Christians, baptized;" yet "your Honour will find in this very cfsn., emanating from" those elders and brethren, that "their views are open on the subject of open or strict cmn., and I think that will be all-important in the case." After reading extracts from the Preface, Sir H. C. read from chap. 26, the statement that "all particular cgn.s. ought to be constituted of visible saints," and from chap. 27, that "saints by profession are bound to maintain an holy fellowship and communion in the worship of God," &c. The *Master of the Rolls* said, "How do you read the word 'communion' there?" Sir H. C. replied, "I do not imagine that 'cmn.' there points to the L's. Spr. *alone*—certainly not... [The paragraph speaks] of the *absolute duty* of cmn. between believers;.. of course *including* a participation in an ordinance like that of the L's. Spr."\*\* He read

§ Not correct; see pp. 84, 85.

¶ Not wholly so; it implies by what it says that baptism is pre-requisite to the L's. Spr. Chap. 24, says that believers "*baptized*...and being *thus planted* in the visible ch.,...do walk together in cmn., in all the commandments of Jesus. Acts ii. 42, 'And they continued steadfastly... *in breaking of bread and in prayers.*'"

\*\* It is self-evident that this passage did not refer to the L's. Spr.; that it did not mean that baptized and unbaptized believers *ought to commune together in it*; for in that case no Strict Baptist could have signed it. Ed.

\* This is not correct. The question and evidence relate to *all* believers; to those who *differ on redemption*, and on *other points*, as well as on baptism. Ed.

† Not correct. See pp. 54, 85, and Mr. Palmer's Reply.

‡ In and after 1646, the 39th art. is not silent; see p. 85.

|| Not correct; see ph. 5, p. 86, preceding.

from chap. 28. the words "baptism and the L's. Spr. are...to be continued in [Christ's] *ch.* to the end of the world," &c., and from chap. 30, the words, "the Spr... was instituted ... to be observed in his churches," &c., and said, "There is not a word as to excluding a person who has not been actually baptized; and...the *Appendix* says it is left open."

Sir H. C. said, that an extract, read by him from the *Appendix*, showed that the messengers did not, as Mr. Kiffin at a former period had done, object to hear persons who had not been baptized, preach. He said also [see p. 58], that if they referred to those *cgns.*, when they said that, as to "entire *cmn.* in God's house,...we (as well as others) are not at a full accord among ourselves," &c.; then it "is a confession that different *cgns.* among them take different views, yet that they were all Pr. Bpt. *cgns.*...My learned friend, Mr. Roundell Palmer...said.. [that] those words may only refer to the conscientious views of individuals<sup>4</sup> in the *cgns.*...I should have said...that clearly could not be the case; for what they are speaking of is the practice of the *chs.* and not the particular views of individuals."\*

Sir H. C. said, that Mr. Kiffin, who opposed open *cmn.*, was one who signed the Circular Letter convoking this assembly, and that "it is natural to presume" he took part in it.

This *cfsn.*, he observed, omitted the statement made by the Westminster *Cfsn.* (on which it was founded), that baptism is to be used "for admission into the visible *ch.*."

"The fifth edn. [of this *cfsn.*] was published in 1720,...bringing it very near the time of the trust-deed in question."<sup>†</sup> "The Hanserd Knollys' Society, a society greatly looked up to by the Baptists, an Antiquarian Society...reprinted [it]...in 1854."

4. THE ORTHODOX CREED of 1678. After following Mr. Gould's Ans. in alleging this to be a "Local *Cfsn.* of *cgns.* of Particular Bpts.," Sir H., on referring to Crosby's History, found it stated to be a General Bpt. *Cfsn.*, and said, "if it was [so,] we have nothing to say about it. If [it was] a Particular

Bpt. *Cfsn.*,...it must be either made in ignorance of' that of 1677, or "as a manifesto against it."‡

5. THE CONFESSION OF ASSEMBLY of 1689. Gould Ans. l. 79—82. Sir H. C. after stating that two persons were present in that assembly from this *cgns.*, "concurring in...that *cfsn.*...Mr. Austine, the pastor,...and Mr. Flatman, the minister," said, "although I again say...that not even their concurrence would bind this *cgns.*, yet I take their concurrence, and the statement of the whole of this body at the time, as contemporaneous evidence of what was understood at that time to be the doctrines that should be held by Pr. Bpt. *cgns.*"

He next read the first and second *Preliminary declarations* of the Assembly, in which they say, "Wherein one *ch.* differs from another, in point of communion...we leave [them] to their own liberty," &c. This Sir H. C. interpreted to mean, "If we find any church which does not agree with us, which does not walk with regard to *cmn.* as we say they ought to walk, [we do not say] they are not a Pr. Bpt. *ch.* at all." He noticed "the title which this Assembly gave themselves;" that is, "The ministers and messengers of...baptized *cgns.*...denying Arminianism;" and said, "I believe their *object*" in publishing this *cfsn.* "was to testify to the world, and to satisfy all other Christians...what it was they professed," and "in [it] one of the things they tell [them] is:—We do not insist on strict *cmn.* ;...some *cgns.* do it, some do not, each must take its own liberty."|| He said that Mr. Palmer's remark, as to the Appendix of 1677, that the views of *individuals* were there referred to, could not apply to the above preliminaries; for these said, "wherein one *church* differs from another,...in point of *cmn.*."§

Sir H. C. then read Mr. Gould's state-

‡ It did not differ from that of 1677, except in *clearness and fulness of expression*. See, for proof that the *Cfsn.* of 1677 affirms that of 1646, which says, that persons *ought* to be baptized *before* they partake of the L's. Spr., Mr. Palmer's Reply, and p. 86, ph. 9.

|| They adhered to the strict *Cfsn.* of 1646. And Sir H. admits that the strict *chs.* did "insist on strict *cmn.*" *within themselves*. Ed.

§ But no *proof* was given, or seems to exist, that the *rule of cmn.* on which any one of these *churches* did then differ from the rest, was the rule of admitting *all believers* to *cmn.* It is proved that other differences in point of *cmn.* did exist; in respect, for instance, of laying on of hands, keeping the Jewish Sabbath, &c. See Mr. Palmer's Reply. Ed.

\* See proof to the contrary in the passage itself,—“freedom in our *spirits*;" and Mr. Palmer's Reply.—Ed.

† 1693 is the last time that a General Assembly recognized this *cfsn.*, Ivimey l. 533, 536. Mere booksellers' edns. are proof of nothing but its *circulation*. Ed.

ment, that some who in 1689 signed the approval of this cfsn., were "ministers or messengers of cgn. of Pr. Bpts. practising open membership or open cmn."

Mr. PALMER. I am not aware of any evidence in support of that." Sir H. C. said, "There is distinct evidence on the point..I will give your Honour one [instance], and one is as good as twenty."

MASTER OF THE ROLLS. "I do not know that one is as good as twenty. I think the more you can give me the better."

Sir H. C. "At any rate I will give your Honour one, Mr. Thomas Vaux, who was at that time pastor of Broadmead ch., in Bristol, which we show to have been a ch. practising open cmn."

Mr. R. PALMER. "That does not appear. It varied."

[The Court rose].

*Second day, Tuesday, May 1, 1860.*

Sir H. C. in *proof* that the Broadmead ch. practised mixed cmn. in 1689, referred to Mr. Norton's Aft. l. 8, 34, and particularly his statement that it "had since 1733 been strict." He said, "I will take that as implying an admission of that which we state, that *before* 1733 it was an open cmn. ch."\*

"Sir, I have done with the cfsns."†

II. EVIDENCE FROM THE HISTORY OF BAPTIST CHURCHES.

Sir H. C., *first*, under this division, *read* almost all the following paragraphs—

\* That is, Counsel had *no proof*, and was glad to rest upon the hope that Mr. Norton might have *meant to admit* that the ch. was mixed in 1689. Mr. Norton, in these words, had no such intention. He was speaking solely of the state of the church *after* 1733. Ed.

† These cfsns. were adduced, it will be remembered, to prove that churches practising open cmn. in the L's. Spr. *only*, (not in *membership*, for that is said to be *distinct*) were called cgn. of Particular Baptists. But what support has even that proposition, (though insufficient, if proved, to show a right to subvert the constitution of *this* ch.) received from these cfsns.? Open cmn. in the L's. Spr., as distinct from membership, is the practice introduced at Norwich. But the churches here brought forward,—Mr. Spilsbery's and that at Broadmead, are not even *alleged* by counsel to have practised open cmn. in the L's. Spr. *only*, but in full membership also. More than that; no *proof* is given that even these two churches, *at the time when* they are said to have been recognized as cgn. of Particular Baptists, did actually practise, as they are alleged to have done, mixed membership. Thus far, therefore, the case has entirely broken down. Ed.

14, 18, 21 to 49, inclusive, 86 and 87, of Ans. I. by deft. Gould, and made a few remarks on them in passing. He spoke of this ans. as having, "by the great care, pains, and ability of [his] learned friend," Mr. Marten, "succinctly embodied [their] view."

[The substance of these phs., will be found at pages 53—59, preceding, and needs not to be repeated here.]

The chief remarks of Sir H. C. upon them were these. On ph. 14, which says that Mr. Spilsbery's was "the *first* cgn. of Pr. Bpts. in London," he said, "on that point. I believe, there is no difference."‡ On ph. 18, which relates to Mr. TOMBES: "I accept my friend Mr. Palmer's observation, that your Honour is not to take what happened in early times, when there was a *transition* from membership of the Ch. of England into this separate body,...as the view of the *Baptist body*... We shall see how far the practice was altered afterwards." On ph. 21, he said, his Honour was "to look at [this] definition of OPEN MEMBERSHIP as *distinct* from [that] afterwards given of OPEN CMN,"|| and that the ch. at Norwich—"our ch., does not *wish* to go to that extent." On phs. 21—23, that "Mr. Spilsbery was spoken of at that time as differing from some of his own way." On ph. 27, that the words of Mr. TOMBES *meant* that entire separation from other Christians, was "not a general rule, only the practice of some persons."§ That ph. 34 "forbids us to draw any strict analogy between what the practice of a ch. may be which looks on baptism as a *sacrament*, and the practice of a cgn. of this kind, which looks on baptism merely as an *ordinance*, just like preaching and prayer." Also that defts. say "there was

‡ But ph. 13 of the same Ans. says that there was a mixed ch., of which Mr. S. How a Pr. Bpt., was *pastor*, as early as 1622. Therefore, according to Mr. Gould's own showing, Mr. Spilsbery's ch., which history says was really the *first* Pr. Bpt. ch., could not have been such a mixed church as Mr. How's was, for then it could not have been the *first* of its kind. Therefore Mr. Spilsbery's must have been an unmixed ch., and Mr. How's *mixed* ch., was evidently not deemed a Baptist ch. at all. Ed.

|| The term "*Open communion*," as used by Mr. Hall and his predecessors, applied to *membership* as well as to the *L's. Spr.* Mr. Gould's definition, therefore, of open cmn. was *not accurate*, as to the time in question. Ed.

§ Mr. Tombes admits, that it was separation which was the *general rule*. He says that "*some* are otherwise minded;" that is, *some* persons are in favour of mixed cmn. Ed.

a separate controversy about the lawfulness of hearing preaching by persons who were not Baptists." On ph. 36, which states that Mr. Spilsbery's ch. changed from mixed to strict, and Mr. Kiffin's from strict to mixed membership: and that Mr. Spilsbery's "still practises strict cmn.," Sir H. C. said that "in 1856 the minister of the church [Mr. Spilsbery's] published a Memorial." Mr. R. Palmer said, it appeared "from much earlier documents that there is no foundation" for the statement respecting Mr. Spilsbery's church. The *Master of the Rolls* also said, "We should know his [the minister's] authority for believing it, because he is speaking of a matter that occurred about a hundred years ago." Sir H. C. said, the minister "speaks of his authority as derived from the ch. bks. He says:—'No change of doctrine can be traced in the ch. bks., throughout all the history of the ch., unless the change from open to strict cmn., might be so considered; thereby implying that he finds in the ch. bks. that change.'"

\* This implication, instead of being proof, implies that no proof could be given. Mr. Gould and fourteen others have stated on oath that Mr. Spilsbery's ch., "for many years from its formation practised open membership," and is "now meeting in Whitechapel, Middlesex." Mr. Stovel's ch., is, no doubt, referred to, which met formerly in Prescott Street, Goodman's Fields. Mr. Crosby states, IV. 327, that the Prescott Street church was formed by persons (perhaps they were a majority, *Ivimey* III. 543), "who came off from" Mr. Spilsbery's ch., and that "the remaining part continued some years together, but...in the end were necessitated to dissolve their church-state." Supposing, however, that the minister of the Whitechapel ch., has seen some of the ch. bks. of Mr. Spilsbery's ch., and knows their contents; even then the fact that no proof is given from them, implies that they contain none. Defts. refer to Mr. Spilsbery's church as a special example; they need proof exceedingly, and yet can only say that a certain minister, implied in 1856, that there was such proof. The minister referred to, no doubt, took counsel of Mr. Stovel, who in a letter to *The Freeman*, dated Aug. 16, 1858, thus urged a search, which has led to this result. The only wise course to be adopted is for all parties ... to collect the facts and the evidence which bear upon the case." On this point, it seems that by the aid of all parties, nothing has been collected. And Mr. Gould now admits, that "We have no history of this cgn., subsequently to its formation, during the pastorate of Mr. Spilsbery," which, he thinks, closed "about 1676." See "Open Cmn.," 1860, p. cxxv. Yet he

On phs. 38—41, as to Mr. JESSEY, Mr. D. KING, and Mr. ANTHONY PALMER, Sir H. C. said nothing of importance.

On ph. 42, as to "the reason" why Mr. BUNYAN's chapel "was registered as a Congregational... and not a Baptist place of worship," he said that the Baptists were then called "by the State" Anabaptists, and he believed "were not recognized, and would not have been tolerated." Mr. PALMER handed his learned friend Mr. Offor's edn. of Bunyan's *Pilgrim's Progress*, opened at p. 62, of the Introduction, as proof "that it was the practice to register Baptist cgn. as Anabaptists, and was done very largely at that time." Sir Hugh said that the Information and Bill admitted that "Congregational is the generic term under which a Baptist ch. ranks."† After reading aloud Mr. Offor's statement of the fact, and his opinion that the ch. "could not fairly be called Anabapt.," Sir Hugh said, "Mr. Offor...evidently... takes a very strong view, as these gentlemen do." Mr. PALMER said, "Mr. Offor is a very strong advocate of open cmn." Sir Hugh assuming this to be so, said, "we might all say that if you find a church which has in it persons who are baptized in infancy, and who recognize Pedobaptism; if they are in the church as members, that is not a church, which, in the strict sense of the term, is to be called an Anabaptist ch."‡

Sir HUGH read the title of a declaration made in 1647, "by Congregational societies in and about... London; as well of those commonly called Anabaptists, as others,"—that is, [he said] of Independents." H. K. Sy's *Cfns.*, p. 273.

On ph. 43, stating that J. RYLAND, D. TURNER, and R. ROBINSON were "Particular Bpts.," &c., Sir Hugh said, "About which there is no denial that I am aware of."|| BOOTH, he said, "was one of the most celebrated advocates of strict cmn. in the last cent."

and the fourteen witnesses, made oath that it "practised open membership" at that time.

† The Information admitted that Baptist churches are congregational in their government, not in name. Also Norton *Aft.* I. 9.

‡ This denies what Sir Hugh had contended for; namely, that mixed chs., such as he declared those of Mr. Spilsbery and Broadmead to be, were really Pr. Bpt. churches.

|| Plaintiffs deny that Mr. Robinson was a Particular Baptist in later life; Norton, *Aft.* I. 32. His "Doctrine of Toleration applied to...free cmn. was "first printed in 1781," after Mr. Booth had written in 1778. He died in 1790.

On ph. 44, relating to the cessation of the controversy from the time of Robinson to that of HALL, in 1815, he said, that "while the *controversy* slumbered, those churches which adopted open cmn., went on *practising* [it]."

On phs. 45—48, the last two stating that open and strict chs. had "always" united in *Associations* as "cogns. of Pr. Bpts.," Sir Hugh said, "I do not find any attempt on the other side at meeting those four last phs. by evidence."\*

On ph. 49 as to Missionary and other *Societies*, and phs. 86 and 87 as to *changes in cogns.* in respect of cmn., most of them recent, he made no material remark.

Sir Hugh referred to "*Anabaptism*," &c., 1647, by R. Baillie, "a Presbyterian;" and though his Honour said that statements by *opponents*, were, as *evidence*, "really worth nothing;" Sir H. C. read an extract, which says of the Baptists: "these two sacraments [baptism and the L's. Spr.], ordinarily they conjoin;...and some of their greatest doctors hold it nowise incongruous to admit persons to the L's. table before they be baptized."

As to the "*prevalence of...open cmn.*" in Mr. Booth's time; his learned friend, Mr. Palmer, had thought that he found "some admission" by Mr. Hall [Reply, Pref. xii.] that "the churches which practised *open cmn.*† had either entirely died out, or were...insignificant...if indeed they deserved the title of Baptist chs. at all." Sir HUGH quoted a passage from the same work, 14 pages onward, in which Mr. Hall ascribed to Mr. Booth a "disposition to enlarge the number of his partizans," and said that free-cmn. Baptists in Mr. Booth's time were "a respectable part of" *the Baptists*.

Sir Hugh did "not expect to find *very full admissions* on this subject from Mr. Norton,...but any admissions from him [were] valuable." He said of the following statements by him: "I take those—as admissions, coupled even with the denial of the general statement we make,—as admissions, after which there can be no doubt it is established in this suit, that there always have been, and are now churches practising certainly *free-cmn.*,"

\* The statements were not proved, and if they could be proved, were wholly *insufficient* to justify the destruction of what was deemed by this church its sacred and inviolable constitution. Ed.

† No proof is given that even a single ch. then existed which practised "open cmn.," as used by defts. to denote open cmn. at the table, as *distinguished* from it in full membership. Ed.

perhaps also as he says practising *free-membership*, which are considered to be and are enrolled in the general list of Pr. Bpt. chs." Mr. N., he said, had not attempted to controvert "the summary of the Baptist cogns. at present;" ‡ [phs. 86, 87?] He admitted Broadmead to be open "up to 1733."|| In his afft. I. 22, "he admits that Langham, an open cmn. ch., was a Pr. Bpt. ch." Mr. PALMER, "We do not concur in your view of it." Sir H. C., "I say it is necessarily involved, and that where you find a member passed from one to the other by letters of dismission, it proves the two chs. belong to the same body."§ "The only qualification that Mr. Norton attempts to give to our statement that there were open cmn. chs. at the time of the trust-deed, [is this; in afft. I. ph. 33]; he says:—'the few free-cmn. chs. which existed in 1746, did all, so far as my knowledge extends, admit those whom they deemed to be true believers, not merely to the L's. Spr.; but to full ch-cmn.' That is to say, they were not merely free-cmn. but free-membership chs.,...[an] admission that there were a few *free-cmn.* chs. at that time."\*\*

Sir HUGH read Mr. Norton's statement in Afft. I. ph. 28, [p. 80, preceding], as to the *Model Deed* of the Committee of the *Baptist Building Fund*, formed in 1824, and said that "these persons, to

‡ No admission whatever was made as to the truth of the summary. Silence ignored it as unimportant to the issue. Ed.

|| No where admitted. See p. 109, preceding, note \*

§ This act of dismission in 1836, in Mr. Brock's time, was referred to by Mr. Norton as *protested against* by strict members, on the ground that there was "*danger* [that it] would conduct...eventually to the introduction of open cmn." Mr. Norton, therefore, did *not admit*, he never meant to admit, that the dismission was right, nor that the *mixed membership* ch. at Langham was, *strictly speaking*, a "cogn. of Pr. Baptists." What Mr. Norton said was, that "*all present*" at the ch. meeting, even the innovating members, "*admitted* that the ch. at Langham was not 'of the same *faith and order*' as this strict cmn. ch."

\*\* Mr. Norton did not admit that even one ch. practised *open cmn.*, in the sense in which that term is used by defts.; that is, to denote that it is practised at the L's. table *only*. This is important, because if all were mixed as to full membership, the only provision necessary in a trust-deed, to prevent the practice of free-cmn., was to define that *ch-membership* should be limited to Pr. Bpts.; such a provision being then, of necessity, *understood to require that the L's. Spr., as peculiar to membership, should follow the same rule*. Ed.

whom Mr. Norton appeals as great expositors of Baptist practices, [admit] that a ch. which practises open cmn. would still be a ch. of the Pr. Bpt. denomination!"—for [though they say that if "it is desired that unbaptized persons shall be admitted to *cmn.* and *membership*, or either of them," it is "*necessary*" that besides the words "Society of... Pr ... Bpts.;" there should be introduced a clause which would "*clearly express*" that intention; a clause such as this, that "it shall be lawful for the members,... for the time being,...to admit" to the L's. Spr. only, or to membership, persons who "shall not be of the denomination aforesaid,]" yet the Fund being [Sir Hugh said for *churches*, but the rules say] for "*places of worship*, belonging to the Pr. ...Bpt. denomination," this is "conclusive proof," that the committee esteem even such a ch. to be a Pr. Bpt. ch.\*

Sir HUGH asked how Mr. Norton could reconcile what he says as to that Fund, with his statement in ph. 32, that "a ch. constituted and regulated upon the principle of free-cmn., is essentially different from a cgn. of Pr. Bpts."†

He next referred to "*The Baptist Fund*," founded in 1717, and read the statement made in common by the three Treasurers, Messrs. Smith, Lush, and Allen, [see p. 95, preceding] "as to what their practice is in giving aid from the Fund;" namely, that "mixed cmn...has *always* been regarded by the managers as consistent with the designation of such cgn. as Pr. Bpts.," and "has always been

treated by [them] as in no way affecting the applications of...cgn.," or "persons," for exhibitions from the Fund.‡

Sir HUGH said that the treasurers "do not say, We apply the fund to the benefit of a person who has never been baptized; but, we apply it to the cgn. [as having] liberty...to admit to...the L's. Spr. the unbaptized;"|| and he main-

shall be for...those chs. *only*, that go under the denomination of Particular Baptists," and a *Nota Bene* defines Pr. Bpts. to be persons immersed, and who hold the Trinity, Pr. Redn." &c., "according to the Cfsn. [of] 1689." Rule XIV. says, as to "the distributions of this Fund," "no cgn. which is not a *regular ch.*,...shall be considered," and the rule as to young ministers, required that they should be "baptized," and "members of Pr. Bpt. chs." Most certainly Strict Baptists do not regard mixed *membership* chs., (and these are the only open-cmn. churches proved to have existed in 1717 or 1746), as *regular chs.* The known sentiments of Strict Bpts. are, that open cmn. is an *irregularity* which they *must* not tolerate in ch. cmn. The nine "Pr. Bpt. chs., which had the right of choosing the managers, towards the close of that century were, Carter Lane, J. Rippon, pastor; Cripplegate, J. Reynolds; Dean Street, W. Button; Devonshire Square, T. Thomas; Goodman's Fields, A. Booth; Grafton Street, J. Martin; Maze Pond, J. Dore; Unicorn Yard, D. Williams; and Wild Street, Dr. S. Stennett? (See Rule II., Exbt. K. 3).

In 1719, two years after the Fund was founded, the managers absolutely refused to permit the ch. in Pauls Alley, Barbican, to join in the support and management of the Fund: a church which had not chosen, Mr. Ivimey says, "to be recognized as being either Arminian or Calvinist." Compare vol. iv. 200, with iii. 154, 155. Afterwards that ch. had united, in 1705, with the *Association* of Pr. Bpt. chs.; but it is evident from the discussions at the foundation of this Fund in 1717, that the founders, from the *first*, intended to exclude it, and any ch. which was not strictly and truly a Particular Bpt. ch., from connection with the Fund: and as every mixed-cmn. ch. *tolerates cmn. with Arminians* either in the L's. Spr. or in full membership, how could the founders have deemed such a ch. to be a Pr. Bpt. ch. as to *doctrine*, more than in respect of *baptism*? Ed.

|| Only *regular baptized chs.*, and *persons baptized*, each holding that Christ *saves* "all those for whom" he died a "sacrifice," are objects of this Fund; the managers must not apply it to the benefit of the *unbaptized*. But at Norwich a *part of the benefits of the trust*, namely, the right of attending the L's. Spr. on the first Sunday of the month, and at other times, is *taken away* from the Strict Baptist members, to whom it is acknowledged to belong, and is given to *any believers unbaptized*. Ed.

\* Mr. Norton's belief was that most of the members of this committee were in favour of free-cmn., and he appealed to them in proof that even such a committee had admitted that a ch. was *not entitled by law* to introduce the unbaptized to the L's. Spr. in a chapel the trust-deed of which used no other words to define the trust, than such as declare it to be for "A Society...called Pr. Bpts." Ed.

† Sir HUGH admits that a mixed *membership* ch. is not, "in the strict sense of the term, a Bpt. ch." Suppose, therefore, that Mr. Norton regarded a ch. which practises *open* cmn. at the table *only*, and *strict* cmn. as to full membership, or which at the L's. table practises *both* open and strict cmn., as a ch. which is *not* "regulated upon" the principle of "free-cmn.," but which is, on that point, wanting in principle altogether; then the above admission of Sir Hugh justifies Mr. Norton's 32nd ph. The Committee of the Building Fund evidently supposed that a deed limiting use to "a Society of Pr. Bpts.," might be held to *exclude* free-cmn. both in membership and the L's. Spr. Ed.

‡ The original or early Rules of this Fund (Exbt. K. 3), say in Rule I., "that this Fund



tained that the extract which Mr. Palmer had read "from the *original rules*," did not throw "doubt on the propriety of that application of the Fund." One of the rules referred to the Cfsn. of 1689, "as its interpreter," which Cfsn. "said, on the face of it," that mixed cmn. is "consistent with the continuance of a Pr. Bpt. cgn."\*

Sir HUGH then referred to phs. 1—31 of Mr. Gould's second afft., [see pp. 89, 90, preceding] as to *Associations*,† and ph. 32, as to *Societies*.

He next read most of the phs. of the afft. by Mr. *Crisp* and thirteen others, [see Afft. X. p. 93, preceding]; but not, it is believed, ph. 19, which alleges that Pr. Bpts. regard prayer and praise as "entitled to be called *ch. acts*, in every sense in which the cmn. of the L's. Spr. is so."

He then said, "Sir, I there close that part of the evidence."‡

### III. CONTROVERSIAL WRITINGS ON THE SUBJECT.

Sir Hugh first *admitted* that the controversialists on both sides "affirm, in their treatment of the argument, that those cgn. who do not agree with them, violate the laws of God, the principles of the gospel, [and] every consideration...of orderly ch.-government;" but said, that if, though this "controversy has raged, the body of the Pr. Bpts. has still been one body,...the whole I contend for is conceded."||

\* The Cfsn. of 1689 does not say *this*. But in ch. viii. secs. 5, 6, 8, it does say that "to all those for whom Christ obtained eternal redemption"—for whom he "satisfied the justice of God, [and] procured reconciliation," or atonement, by paying "the price of redemption" when he died;—that to all these, he communicates that redemption. So that whatever part of the interest of this Fund is devoted to the education of students at Regent's Park or elsewhere in the sentiment which Dr. Angus and Dr. Davies declare in their affts. to be pr. redu., is applied in violation of the rules of the Fund.—ED.

† What *actual proof* was given by Mr. Gould that even one ch. comprised in the associations in 1746, practised mixed cmn? Broadmead was then *strict*.—ED.

‡ A close examination of this second part of the evidence, will show that it is as destitute of *proof*, even on the point for which it is adduced, namely, that in 1746, there were chs. which practised open cmn. in the L's. Spr. only, and that these were recognized to be cgn. of Pr. Bpts., as the first part was.—ED.

|| It is scarcely credible that it should be gravely assumed that a church declaring the will of God (as understood by itself) to be in-

Sir HUGH objected to the quotations from T. GRANTHAM, DR. WALL, and Mr. NEAL, as authorities "*outside*" the Pr. Bpt. body. He said this "point of practice, ought to be decided, as your Honour has already intimated, by the authorities in the inside of the ch."

He denied that Mr. BUNYAN speaks of "the brethren of the baptized way" as a "body to whom he does not belong,"§ and that a passage on p. 613, vol. II. which he said Mr. Palmer had quoted to prove the contrary, did prove it. Sir Hugh read from "I speak not," to "of saints." [The passage really quoted by Mr. Palmer was not *this*, but one from pp. 616, 617, "the brethren of the baptized way have sought to break us in pieces," &c.] Of this and another passage at p. 618, showing that Bunyan's practice was called by his opponents "singular," Sir Hugh said, "anything more absurd...as instances that Bunyan was...contending for views inconsistent with the tenets of the Bpt. body, could not well be conceived."¶

He then read part of ph. 32, of Mr. Norton's first afft.; said that Mr. Booth's reference to *Faustus Socinus* as "the first open communionist," was "irony and raillery," and that to speak of it as "a correct statement," was to turn that irony "into a solemn assertion of a matter of fact."\*\*

*violable law*, should be supposed to be indifferent whether that law were *violated* or not, and to be satisfied if it retained the name of Pr. Bpt., even though under that name, its constitution as *fixed by God*, should be *violated*. Is it the fact that godly people care not for the violation of God's will, if it is done under a certain name? Or might it be assumed that property left to a *certain person* of the name of Smith, was duly inherited, if instead of *that* Mr. Smith, any person of the *name of Smith* actually possessed it? To common people this seems to be neither religion nor morality, neither law nor equity.—ED.

§ Reference to Mr. Bunyan's works will show that Sir Hugh was mistaken.—ED.

¶ When *disproof* is impossible, what then? May it be supposed that to say a thing is absurd or aimless, that it is trash or ridiculous, that proof is needless, or the like, is sometimes deemed lawful in order to hide the defect.—ED.

\*\* The *principle* or *rule* of Mr. Hall and other Trinitarian advocates of free cmn., is the same as that of Socinus, and other Socinian advocates of it. Socinus said, "Satis est, dummodo in us concordēs simus, sine quibus Christiana pictas consistere non potest.—It is enough if we agree in those things, without

He referred to the words of Mr. HALL, given in Dr. Gregory's Life of him, on the authority of Mr. Balmer, to whom Mr. Hall addressed them; that is, "I believe firmly in *general redemption*;... I consider the fact that Christ died for all men," &c. Sir Hugh said, that during Mr. Hall's "whole life, he was the minister of a Pr. Bpt. cgn., and would therefore have been committing a *fraud*, in the mildest sense of the term, if he held the doctrine of general redn., in opposition to the doctrine he was expected to preach." \* Sir Hugh spoke of this part of the afft. as "ridiculous" and "trash."

He noticed the evidence given that Mr. R. ROBINSON became a Socinian, and that Dr. JAMES FOSTER advocated cmn. with Socinians, &c.; but did not attempt to prove the contrary. He merely said that such statements were "aimless," and "end in nothing."

Of ph. 6, in Mr. Norton's second afft., [see p. 86], which states that each side, on the cmn. question, has held that its practice "was made *incumbent by the will of God*, and not left open to the pleasure of men," Sir Hugh said, "I entirely concur in that...I agree; in that sense it was not an open question."

Sir Hugh then read two or three passages from Mr. R. Hall's works, to

which Christian piety cannot consist." Works, I. 737. Mr. Hall and others differed from him merely as to the *application* of this principle,—merely as to what those things are without which piety cannot consist. Mr. Booth no doubt meant that what he said of Faustus Socinus was really "matter of fact."—ED.

\* No proof is given that Mr. Hall did not hold the doctrine that Christ died for all men. This doctrine is one which deft. Gould and his witnesses call *particular redn.* The difference between Mr. Hall and them is merely this; that Mr. Hall calls this doctrine correctly *general redemption*. But the ability of those who hold that view, to use Particular Baptist chapels, and to share in the benefits of the Pr. Bpt. Fund, and other endowments, might have been much affected by a decision of the Master of the Rolls, that the doctrine that Christ died for all, is that of *general redn.* Defts have no express decision from the Master of the Rolls, on that point, but their own leading counsel has given one instead. It is in effect this, that it is a *fraud* for those who hold the position of Particular Baptists, to do so and yet maintain this doctrine of general redemption:—that Christ died for all men. It is singular that their efforts should have drawn from their own counsel such a declaration as this.—ED.

"show exactly that was the issue then raised." One passage contained the recommendation, quoted at pp. 7 and 8, preceding, that if there is a majority in favour of free-cmn, it should introduce it, and let the strict members "receive the L's. Spr. apart." At Mr. Palmer's request he read also the statement that thus "a silent revolution may be effected in our chs.," &c. Reply to Kn., p. xviii.

The learned counsel next referred to the *cross-examination* of pltf's. witnesses, remarking as he read parts of the depositions of the ministers that they denied that Mr. Kinghorn, or Dr. Owen, or Andrew Fuller, held the doctrine of pr. redn.; and saying "how very tight [as to cmn.] the reins would be drawn, if these gentlemen only had their own way;" for they would not receive even a Pr. Bpt. to cmn. with them, if he were a member of a ch. which "admits the practice of open cmn."

He then dismissed the subject of evidence derived from *controversial writings*,† by saying that "the mode in which these gentlemen in cross-examination speak, throws a light back on the way in which the controversy was conducted in past times."

#### IV. *The history of this church.*

Sir Hugh first referred to Mr. Gould's Ans. I. phs. 88—92, and 104—109. [See pp. 59—61, preceding].

As to the Articles in the *first ch.-bk.*, he said, that in the 9th, defining the "visible ch." to consist of "baptized believers," there is "no reference, in terms, to the exclusion from the L's. Spr. of unbaptized believers."‡ "We admit entirely the definition here given," that is, as to full membership. But the Confessions, he said, to which he referred on April 30, had "the very same definition," and "expressly treat, as a question consistent with those Cfsns., the admission of unbaptized believers to... the L's. Spr."

† It is obvious that in this third part there is as little *proof* as in the parts preceding, that chs. receiving the unbaptized to the L's. Spr. *only*, even existed in 1746. On the other hand, the decisive point is admitted, that strict cmn. has been held by its advocates to be an *inviolable law of God*.—ED.

‡ Art. 10. states that the L's. Spr. is "delivered to the ch.," which makes *membership* in some ch. of baptized believers, necessary to cmn. in the L's. Spr., and excludes from it persons who are not baptized, and those who, though baptized, are not members of some such ch. Another remark which is pressed on the attention by this admission, is

Yet if the articles, he said, had required the exclusion of the unbaptized from the L's. Spr., he would "have contended that...it would have been perfectly competent for the cgn. ... afterwards...to have said, we will now have articles of a different kind." He maintained that in 1775 this cgn. "did consider that it had perfect authority...to put aside the whole of these articles, with the exception of one of them."

In answer to *Mr. Russell's challenge*, implying that they "could not find any where in this bk., mention of [unbaptized] persons received to cmn. at the L's. Spr.," Sir Hugh said, "My answer is, there is nothing whatever in the book that is meant to bear on that subject, ... [it] is silent." \*

He then handed to his HONOUR the first ch.-bk., that he might see that the leaves containing the articles "were evidently bound up subsequently to the time the papers were written." But his Honour said, "The water-mark is the same on the fly leaves in the first part and subsequent pages. Persons who are skilled in those matters, would tell you the date of the year of the paper which has a particular water-mark.... This book appears to have been bound on two different occasions. There are two backs to it.†...It has all the appearance of being perfectly *bona fide*." Sir Hugh

the self-contradiction involved in the defence. It is in evidence that, by the defendants, *faith* is held to constitute essentially ch. membership; and *church membership*, to entitle to the L's. Spr.; that churches composed chiefly of the unbaptized are held to be true chs., and their members rightful ch.-members; that to become a *member* of such a ch. is deemed a "more excellent way," than to be a Strict Baptist (see p. 42, col. 1, preceding), and that all this is required by God to be acted on as law; and yet counsel for these parties, come forward and admit, for the purpose of securing the use of this chapel for their inconsistent practice, that the ch. must be exclusively composed of *baptized members*. Thus admitting also, that if the said parties acted in accordance with what in the evidence they are proved to hold, the original articles of this ch., would, on their own admission, declare in the *most express terms possible*, their practice to be unlawful.—Ed.

\* As to strict cmn., it is not silent. See pp. 78, 79, preceding, and Mr. Palmer's Reply. Ed.

† The ch. bks. of Baptist cgn. often contained a record of the birth of the children of the members. The removal of pages containing these records to Somerset House, may perhaps account for the second binding of this book. Ed.

then took the articles as admitted to have been "evidently the rule of practice at the time," but contended that they "might be changed at any time," and were "annihilated in 1775."

He then read phs. 104-109, of Mr. Gould's Ans. I. [see p. 61, preceding].

His next subject was *the view Mr. Kinghorn appeared to take of what was a Pr. Bpt. ch. when he was undecided as to cmn.* On this point, Sir Hugh referred to deft. Gould's Ans. II. phs. 63-71, [see p. 74, preceding]; as proving that then "it never occurred to his [Mr. K's.] mind, to say that open cmn. would be fatal to this ch. as a Pr. Bpt. ch.;" and that Mr. Kinghorn "thought it quite consistent with his being a minister and a member of the ch. of Pr. Bpts., that he might arrive at one conclusion or the other."

Sir Hugh then read, or referred to most of the succeeding phs. of deft. Gould's 2nd Ans., that is, from ph. 72, to the end, [see pp. 74, 75, preceding], but without making any remark, of importance.

He next made comments "on some examples," in Mr. Norton's Afft. I. phs. 10, 14, 17, and 20, given, he said, by Mr. Norton, "as instances...of discipline or practice consistent with his view, and inconsistent with ours." [See pp. 77 and 78, preceding].

As to ph. 10, instances of *exclusion from the L's. Spr. and full membership*, including that of Mr. Lamkin for "*pleading for infant baptism*," of Sarah Taylor, for going back to "*general redn.*," and Mrs. Sexton for preferring "*the Newtonian doctrine*," which, Sir Hugh said, meant that of "Mr. Newton, an *Independent minister*;" he remarked that all "those are instances ... [of] doctrines contrary to this fundamental doctrine, or ...of conduct which would be a disgrace and a scandal to the ch." †

As to ph. 14, showing that *proof* was required by this ch. that professed repentance and faith were *truly* so, Sir Hugh objected that all but one were cases of proof required after "*backsliding*;" and as to the fact that the ch. "*agreed there was a work of grace*" in Mary Beard, said that there is there,

† Exclusion from the L. s. Spr. for not holding certain views, is proof that to hold them was deemed essential to cmn. in it; and therefore these instances of exclusion from it, prove that correct views of *baptism* and correct views of *pr. redn.*, were deemed by this ch. equally fundamental to cmn. in that ordinance. Ed.

"merely the profession of faith, which we say is *all that is required*." \*

As to ph. 17, giving proof that the "ch. declined to permit persons to have *cmn.* with it," who assembled "among the Quakers;" who did not "agree with [it] in *doctrine, worship, and discipline*;" or who gave *countenance to worship* contrary to the ordinances of Christ; Sir Hugh said, "none of these entries refer to anything but membership." †

His HONOUR said, "some of the entries... seem to mention that *they* were removed on what we should consider very slight grounds."

Sir HUGH said, "No doubt the discipline is very strict."

As to ph. 20, Sir Hugh said, "Mr. Norton sets out upon an argument which, I think, so good a reasoner as he generally is, would, on reflection, desire to withdraw;... he says that [exclusion] means they are excluded from everything in the church, [including] *cmn.* in the L's. Spr.;... wherein we agree; but he infers from that the most fallacious and inconsequential proposition, that the reception of any person... to the L's. Spr. is, by a converse of statement, a reception of him into all the privileges of the ch., as members." ‡

Sir Hugh thus summed up his argu-

\* It seems, therefore, as if defts. meant to contend for a right to receive, as Mr. Gould declared himself willing to receive, "any man who professes to be a believer," without judging him. See p. 45, col. 2, top. The minute shows that the ch. required proof of a saving change. ED.

† But exclusion from membership was exclusion from all *cmn.*, *occasional*, as well as *regular*, in the L's. Spr. An excluded person could not partake of the L's. Spr. under any circumstances whatever. The above minutes, therefore, were *positive proof of the practice of strict cmn.* as to the L's. Spr., as well as in full membership; for a person who merely *pledged* for infant baptism was on account of it *excluded from both*. ED.

‡ What Mr. Norton stated and proved was that the term "*cmn.*," instead of being used as defts. use it, for *cmn.* in the L's. Spr. *merely*, and to denote an act which they say is distinguishable from the privileges of ch. membership, was by this church applied to "*the full cmn. of membership*, including *cmn.* in the L's. Spr.,... as [being] *one act or part of*..... *privileges peculiar to the ch.*" He showed that the ordinance was spoken of as "in the ch.," so that, by this church, consisting of *baptized* believers, persons who were *outside* of any and every such ch., were deemed *outside* also the observance of this ordinance. This was not an inconsequential inference, but a proved fact. ED.

ment on this head: "There is nothing in these *Articles*,... inconsistent with... the Confessions of faith,... which [Cfns.] recognized on the part of Baptist chs. generally, the privilege of admitting to *cmn.* believers who were not baptized;... nothing in the *books* which negatives the *supposition* that prior to Mr. Kinghorn's time such reception of unbaptized believers did take place;... nothing in these *instances* that Mr. Norton gives,... except that... *members*... were excluded from the church in consequence of *disorderly conduct*. Therefore, in the constitution of the ch., the liberty of the ch., as I contend for all Baptist chs., is not in any way curtailed.... If you had found in the original articles anything that would indicate a curtailment of that liberty, it would be wholly within the power of the ch.... [to] adopt a different practice; [and] we have this confession from Mr. Kinghorn, [when he] was in doubt, that it was not incompetent to the *egn.* to adopt the one view or the other." §

V. *The alleged innovations.*

Sir Hugh referred to phs. from 139—164 of deft. Gould's 1st Ans.

As to *E. Bayes*, he said, "there is no doubt that some persons in the *egn.* were willing that she should have been received as a member even before she was baptized, and they carried a resolution to that effect; || but Mr. Gould says, I carefully abstained from receiving her as a member until she was baptized."

As to the res. of March 11, 1857, [p. 16], Sir Hugh said, the parties "thought, and we contend most properly thought, ... [it] was simply an affirmation of, and acting upon the constitution of the ch."

§ From first to last nothing was adduced which supported these conclusions. Neither by the Cfns., nor the proceedings of the Assemblies which passed them, was it *demonstrated*, beyond a doubt, that a single mixed-*cmn.* church was recognized, as in a *proper sense*, a "*egn. of 1'r. Bpts.*" The reference made since the suit, by Mr. Gould, in his edition of *The Case*, to other alleged evidence on this point, will be noticed afterwards. The *articles* by their definition of the constitution of the visible ch., and of the L's. Spr. as a *church ordinance*, and also the *church minutes*, are inconsistent with the admission of *all believers* to the L's. Spr. The articles deny the right of any man to *alter* what, in the view of this ch., God had enjoined. And Mr. Kinghorn made no such confession as is alleged. ED.

|| Compare the denial of the Five Trustees, at p. 65, col. 2.

He mentioned the offer of a *separate strict service* as "very important."

Of the *course adopted towards the protesting members*, Sir Hugh said, that "a more considerate course could not have been taken by Mr. Gould," and that one of those who gave "advice, in accordance with" which Mr. Gould acted, was "a Strict Bpt., the Rev. C. Woollacott." Sir Hugh, interpreting Mr. Gould's meaning, said that "if these gentlemen [the protesting members] will not come to that which it is incumbent on them, according to the rules of the ch., to come to, if they remain stubborn and unyielding, then the ch. must exercise its discipline, not on account of their opinions, but on account of their procedure."\*

As to *arbitration*, he said, that Mr. Norton's afft. "seemed to impute blame to Mr. Gould on this subject," he would say, that "anything more kind, fair, or honourable than the offers he, [Mr. Gould, had] made...could not be supposed."†

Sir Hugh then referred to the *schedules* of Mr. Gould and Mr. B. Alexander, [p. 91, preceding], relating to those who signed the Protest of 1845, and the Declarations of 1857, pp. 9, 28, preceding.

As to the Protest signed by 42 persons in 1845, he said, that they were so far from "having their consciences outraged, [that] they continue to worship at the chapel." Instead of admitting the *exclusion of eleven* of them, he spoke of *nine* only, and said of their exclusion, "that we call resignation." Mr. Palmer said, "It appears from our affts. in reply, that in the years 1845 and 1846, eleven were excluded, on the ground of Mr. Brock's proceedings." Mr. Gould said "that is not exclusion."

As to the 132 who signed the Declarations in 1857, Sir Hugh said, that taking these documents as evidence of "the present opinion of the cgn.," the statements of the above afft. showed that the minority on "the question now discussed, [is] utterly insignificant," and that the defts. "represent the wishes and views of the overwhelming majority of the

church." [See p. 28, as to the nature of some of the statements of this afft.]

"I have now done with the evidence."

VI. "A few words upon *one or two other parts of the case*."

1. "The extent to which my learned friends must carry their argument... The Prayer... asks your Honour to declare that no person is *entitled* to enter the doors" who has not been baptized; which "would *prevent*" others from entering as *hearers*. "If they do not ask for that, [I ask] what is the line of demarcation?... I contend here, not for the privilege of strangers,... of children,... of occasional communicants, [but] of the majority of the cgn. If the majority... say there shall be no strangers admitted,... so it must be.... If [they] say, 'we... desire the house should be used in this way, and to this extent,' [a reference apparently to the use of it for free-cmn.], then I say, they are clearly entitled to have that."

2. "My learned friends say, 'it is a *contradiction in terms* to speak even of the presence in a cgn of Bpts., of persons who are unbaptized.' Sir Hugh denied that it was his Honour's "province to determine whether it was "a contradiction in terms," or not, and said that he had merely "to ascertain... a question of fact," as to whether "the Particular Baptist church || has recognized the pos-

† What the pl'tfs. there ask for, is a declaration as to who has a *legal title* to the beneficial use; and they do so, not for the purpose of actually excluding all who have no such title, from the building, but of excluding them from all *such* use of it as invades, in any degree, the *exclusive right* of those who have such a title. Ed.

|| The term church seems to be used here in a sense at variance with congregationalism; and to denote a body of churches. Sir Hugh seems to have meant, that it is possible for a term to be, in the course of time, used by such a body of churches in a sense contrary to its original and natural meaning; so that to appeal to its natural meaning would be to mislead from its actual meaning. This is, no doubt, quite possible. And, therefore, it was important for plaintiffs to show that such terms as "Cgn. of Pr. Baptists," were *commonly used*, in and before 1746, in accordance with their natural meaning, and as the *distinctive* name of cgn's. composed of, and limiting cmn. to, Pr. Bpts. This was proved most decisively. Suppose, however, that the Broadmead ch. had been proved to be mixed at the time when it is found in a list of more than 100 churches, called "cgn's. of *Christians baptized*," such a circumstance, in a classification which was merely a *general description* of the mass, not an exact definition,

\* It is unquestionable that their procedure was the *result* of their opinions; and to say that by the rules of the ch., that is, by the very rules which had been set aside by the introduction of free-cmn., the strict members were required to acquiesce in that introduction, is to state a contradiction, it is to say that those laws *required* assent to the *violation* of themselves. Ed.

† Compare pp. 29 to 48, preceding.

sibility of admitting" such persons without forfeiting that name.

3. As to the expression *particular or limited redn.*, Sir Hugh said that "an attempt was made by the *Amendment* of this Bill to ask the Court to declare, (speaking of limited and particular redn., as if they were exactly synonymous) that admission to this ch. of St. Mary's was to be confined to those who professed the doctrine of limited or particular redn."

Mr. PALMER. "There is no such amendment, that I am aware of. ... I think if you look at the Information, you will find the words remain the same as they were."

Sir HUGH, after looking, admitted that "the words...[did] occur in the original Bill." He said that Mr. Russell had relieved him "from dealing with" the subject,\* and that he had only to remark that Mr. Gould was not charged "in the suit" with "erroneous doctrine on the subject," nor was the ch. said to have required, "as a test of membership, the profession of any particular view" on it. The doctrine of general redemption Sir Hugh defined to be that Christ "died for all mankind," but that God made "no absolute decree [to save] particular individuals;" the doctrine of particular redemption he defined to be, that the elect are "fore-ordained...to be saved,"† and "are the only persons who can

could no more prove that the whole body meant to say that, in a strict and proper sense, churches composed of all believers, are *cgns. of Christians baptized*, than the presence of a single horse in a drove of a hundred oxen would prove, that a person who called it a drove of oxen meant to say that a horse was strictly and truly an ox. ED.

\* Mr. Russell had relieved him from dealing with it "at present." Pltfs.' counsel used their discretion as to the manner of advocating the case, but they had no authority whatever for withdrawing any part of it. The withdrawal of the term "limited," would have left the definition of particular redn. just the same; and Mr. Russell said expressly that they asked for "the whole Prayer of the Bill." The term "particular" was used in the sense which it was proved by the pltfs.' evidence to have in 1746, the sense of a redemption limited, as to both purchase and deliverance, to the elect. ED.

† This is the doctrine of *predestination* not of *redemption*. Some of the early General Baptists, the avowed advocates of general redemption, seem to have held precisely the same combination of *general redemption* with *particular fore-ordination*, which defts. declare to have been held to be *particular redemption*.

profit by the atonement;" and he contended that the holding of this decree, whether it were in connection with the view that Christ "died for all mankind," (as held by the General Baptists), or with the view that Christ "did not die for all mankind," constituted particular redn.; but that the last view,—the view "advocated by the relators in this suit" as having been that of pr. or limited redn.,—though it may be "called the doctrine of *limited redn.*," is only *one view* of the doctrine of *particular redn.*

4. Sir Hugh alleged "the *silence of the Deed upon the subject*" of cmn., and said, "Nothing would have been easier, if the author of this trust-deed had desired to exclude this Pr. Bpt. cgn. from the liberty which other Baptist cgns. on the general Cfsns. of faith then had, than...to dedicate [the property to it] 'only so long as they hold that particular form of practice which they now profess and...now adopt.'"<‡

5. He spoke of the words "*for the time being*," as referring partly to "*fluctuation of opinion* within the pale of what may be called Pr. Bpt. sentiments,"§ and said of these two points, [4, 5], that they are "about the strongest evidence we could have that that cgn. was to have the fullest liberty which a Baptist cgn., at that, or at any time previously, was held to have enjoyed."

6. Sir Hugh said, that this is "not a question of improper alienation of property," but "simply of the extent of the power of the congregation, looking at

‡ No church could be expected to prohibit a practice then unknown. In the Introduction to Mr. Gould's edition of the Norwich Case, he admits at p. cxlii. that the practice of open cmn. limited to the L's. Spr. *only*, is of comparatively "recent origin." Sir Hugh admits that a mixed *membership* ch. is not strictly a Pr. Bpt. ch., and therefore admits that the term "cgns. of Pr. Bpts.," was *sufficient to prohibit expressly* at that time the only form of mixed cmn. proved to have then existed. But besides this, the property was left to *this cgn.*, as distinguished from, and independent of, all others. Its articles declared baptism to be essential to membership,—the L's. Spr. to be a Divine and a ch. ordinance, and the will of God to be unalterable. To say that notwithstanding this, it could intend that its constitution *might* be altered, is to *contradict* the evidence. ED.

§ The words "for the time being," are used customarily to denote merely a succession of persons. They *could not* be intended to denote permission to change the *practice* of that church as then *held to be made binding and unalterable by God*. ED.

it in the capacity of a *quasi* corporation.\*

6. Sir Hugh repeated his propositions of fact and law; and claimed for the majority a right to act on the question as it pleased. He maintained that the property was given to it subject to that right, and that the majority had leave to exclude those who did not acquiesce in its decision on the point, from their share in the use of the trust property.

7. He submitted that this Information was "an attempt to raise...a central and ruling authority in the Court of Chancery, which would supply the place of that central authority, the existence of which [the body had] disavowed,"† and prayed that his Honour would "dismiss the Information out of Court."

MR. ALFRED G. MARTEN.

Mr. Marten spoke at considerable length, and occupied the remaining part of the second day. But as the points on which he dwelt were either the same as those on which Sir Hugh had addressed the Court, or were not material to the points considered in the Judgment, it is needless to refer to them, further than to say that he endeavoured to show, first that what had been done was not inconsistent with the trusts, and then that the trustees had not been "properly appointed," according to the requirements of the deed of 1746.

MAY 2, 1860. MR. ROUNDELL PALMER'S REPLY.

"Sir...The points of FACT on which my learned friend, Sir H. Cairns relied, were in substance,

First, *That every cgn. of Pr. Bpts. might always, consistently with, and by virtue of its constitution as such, adopt the practice of open cmn.* Secondly, *that*

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\* The property, as a matter of fact, is now alienated from that part of the cgn. which adheres to what was fundamental to its constitution, when the Trust-deed was made. They have been excluded, because of that adherence. As the rest of the members have violated that constitution, these are the only true representatives of that congregation as then constituted. ED.

† The sole request of pltf's. to the Court was to enforce the *Trust-deed* as to a question of property. But Sir Hugh himself did that which he imputes to pltf's. He made the free-cmn. practice of *other cgn's.*, a law to override the proved fundamental practice of *this cgn.* ED.

*the decision on that question...was always within the power of the majority,...who might change backwards and forwards...as often as they pleased.*

"His conclusions of LAW...are these:—that a gift of property to a Pr. Bpt. cgn., at a certain place, for the time being is...subject to the power of altering its terms of cmn.: that the actual usage of any such cgn. even for any length of time, being consistent with an inherent power to alter that usage, was no evidence of the impropriety of their doing so; and ...that such conclusions may be deduced from, or are at least strongly fortified by...the congregational form of ch.-government which existed in these societies; and that the introduction of those who are not baptized, is the privilege of the cgn. and not the right of the persons introduced."

Mr. P. first noticed "an incidental point... which, in some respects [had] been treated as of importance—the alleged distinction between open membership and open communion." [This term open cmn. he generally uses as the defts. do, for open cmn. in the L's. Spr.] He said it would be utterly impossible through the media relied on by the other side, to establish...a liberty to introduce open cmn.,...which would not equally establish...a liberty to introduce open membership... It is obvious also, if you look to what has passed in this particular ch., that this result [admission to full membership] is looming in the distance, and at no very remote distance. It is the logical development of the principle asserted; it is the practical development which [it] has in many cases received, and in this case would undoubtedly receive.... It is important to attend to [this], because when...my friend dealt with the history of this ch. [he argued] that open cmn. [in the L's. Spr.] might be allowed in this ch., without advancing at present a claim beyond that, in this particular case. I am quite sure that your Honour will find that if the arguments are sound, they involve a latitude which will not admit in principle of that distinction. [It] is merely arbitrary and verbal.... My learned friend's ground is so large that, if tenable, it follows manifestly, that the inherent powers of the congregation will always enable them to enlarge or to limit the terms on which they admit persons into their body, who did not originally belong to it."

"Now, sir, let us examine the HISTORICAL TREATISES on which my friend relies in order to support his main propositions of FACT. He refers first to confessions;

*secondly*, to the doctrine and practice of Pr. ministers and cngs. in former times; *thirdly*, to...Associations...; *fourthly*, to Colleges and Missionary Societies; ..[also] to...letters dismisory...and the present statistics of the denomination...The first two have an importance greatly exceeding the last three, because...present practice... [is] manifestly inconclusive altogether as to whether that practice is *de jure* or otherwise."

1. The CONFESSIONS. "The more that subject is examined,...the more the arguments attempted to be derived from it will recoil on my learned friend, and will tend to establish with clearness ... the propositions on which this Information relies....."

1. "First, with regard to the..LONDON CFSN. of 7 [cngs.] in 1646 : there is a loose suggestion in some part of the papers....that there were...many more cngs. [in London], not represented by those who signed it. For that suggestion there is *no support whatever in any portion of the evidence*. On the contrary, I think Mr. Norton in his 2nd aftt. has brought forward facts which most clearly show that it could not possibly have been so, and leave no doubt that the 7 cngs. were *all* the cngs. which existed at that time in London : from which the document proceeds." Mr. P. then read the evidence of this from Mr. N.'s 2nd aftt., see p. 84, preceding; and said that "the *language* of the cfsn. seemed "unmistakably to contain"...the principle of strict cmn. He read art. 33, defining the *visible ch.* to consist "of visible saints...being baptized," and said : "from the words '*being baptized*' there can be no escape." After reading art. 39, stating that disciples "ought to be baptized, and *after*, to partake of the L's. Spr.," he said that it implied "as far as language at all ambiguous can do, that...to the partaking of the L's. Spr. baptism is an *antecedent qualification*."

"My learned friend argued that such could not have been the intention of the framers of that document, [because, as he] insisted, Mr. Spilsbery, ...one of [those who signed it], advocated and practised ...not only open cmn. [in the L's. Spr.], but open *membership*." But "if Mr. Spilsbery's practice and tenets, (which I will show your Honour presently *is not the case*)...were such, my learned friend has to explain how Mr. Kiffin...who [he says] separated from Mr. S. on account of [Mr. K.'s] .... non-intercommunion with persons not baptized, came to join him [Mr. S., in that cfsn. But] it was not on this question of open cmn. and

membership, that Mr. K. separated, but on a ground that went *beyond* that." Mr. P. then read an extract from Mr. Norton's 2nd aftt., ph. 5, referring to Mr. Crosby, III. 3, 4; and Mr. Ivimey II. 297, in proof that the real occasion of Mr. Kiffin's separation was a difference about "suffering ministers to *preach*...who had not been baptized : " and said that his ld. friend had stated correctly that in about 1690, the fitness of permitting them to preach was affirmed, on the ground that preaching "was *not* an act of ch. membership or ch. cmn., but...capable of being participated in by persons of any description whatever. That was the *real difference* between Mr. Spilsbery and Mr. Kiffin."

In proof that Mr. Spilsbery did *not* advocate and practise open membership, Mr. P. referred to Mr. N.'s 2nd aftt., ph. 2. He first read Mr. N.'s statement, that those who became members of Mr. Spilsbery's cgn. in 1633, may have considered themselves, when unbaptized, "competent to join together in a ch. covenant," with a view to choosing one of their number to immerse them forthwith ; but that to the best of his knowledge the ch. did not permit any but Baptists to become fully constituted members, or to partake of the L's. Spr. (Compare p. 54, note, and pp. 85, 110, preceding.)

"If nothing more," said Mr. P., "were done in Mr. Spilsbery's church than [that], his practice...was only what, in the nature of things, was inseparable from the origin of the denomination. That is confirmed by the passage cited from Mr. Ivimey, vol. iii. 314 ; "no evidence can be produced that the ch...ever practised mixed cmn."

"These *loose suggestions*, as to Mr. Spilsbery's practice [are] founded on a mere hypothesis, which is, in truth, *contrary to all the evidence we actually have*."

"My friend,...with very great candour, acknowledged the accuracy of a passage in Mr. N.'s 2nd aftt., ph. 6, with which he said he was happy to be able to agree ; " [that passage states that the question had not been recognized as an "OPEN" question, in the sense of being left to *human discretion*.] "That is," said Mr. P., as to what Sir Hugh acknowledged, "they have *all* held the course which they respectively advocated, to be *required by the will of God*, and have *not* held it to be '*open*' and *discretionary* whether it should be adopted or not according to the will of men." Mr. P. quoted Mr. N.'s reference to his first



aft., phs. 33, 38, in proof of this, and said, "that will be strictly borne out, on both sides, by the citations offered."

"Bearing in mind...that [this is] admitted on both sides,...just follow one or two things on the subject of this Cfsn.... At p. 23 [Exbt. VI.] in the Preface to the 2nd edn. of this Cfsn., it is said, 'and although,...yet are we one in faith, fellowship, and cmn.' And at p. 48... 'But if any man shall impose upon us anything that we see not to be commanded by our Ld. Jesus Christ, we should in his strength rather embrace all reproaches and tortures of men, to be stripped of all outward comforts, and if it were possible, to die a thousand deaths, rather than to do anything against the least tittle of the truth of God, or against the light of our own consciences.' It is not possible that men who...most sincerely entertained such sentiments, and expressed themselves with that force, should have met agreeing together to compromise any point which any of them regarded as matter of Divine revelation, and obligatory, and altogether independent of [human] discretion."

"Mr. Benjamin Cox...[whose] signature as well as those of Mr. Spilsbery, Mr. Kiffin and Mr. Hanserd Knollys ... is, I think, in the 2nd edn [of the London Cfsn.], issued an Appendix [to it], as 'a more full declaration of the faith and judgment of baptized believers.'" Mr. P. then read a notice of Mr. Cox by Mr. E. B. Underhill, editor of the Hanserd K. Society's vol. of Cfsns. Intro. p. x, stating that Mr. Cox "was probably employed in the revision of the 2nd edition" of that Cfsn., &c., &c. He read also the words in the title of the Appendix, "It is therefore our duty," &c., as far as, "this ensuing appx.," and said, that these words show that it was "conceived by the writer to be merely a more full statement of the doctrine set forth in the Cfsn., to which he adhered." He then read Art. xx. of this Appendix; see Exbt. VI. p. 59, stating that the churches which joined in the Cfsn. did not commune in the L's Spr. "with any but disciples baptized;" and said, "That shows, I think, very plainly, in what sense that Cfsn. was understood by...Mr. Cox, at the time; nor is there the slightest trace, that I can find, in that bk. [Exbt. VI.] of any person in that cent. having excepted to the statement, as an improper statement of the practice, the views, and the doctrine of the body."

Mr. P. then took up Exbt. 51, an original copy of the 4th edn. of the London

Cfsn., published in 1652, which he said "has an Epistle to the Reader prefixed, signed by John Spilsbery, Wm. Kiffin, and various other ministers. Then follows the London Cfsn., and after [it] a sort of Appendix to the Cfsn., [an] Epistle to the Brethren,...called 'Heart Bleedings for Professors' Abominations,' addressed 'to all the chs., of God, sanctified,' [&c.] Exbt. VI. p. 293." They speak of "the true churches of Jesus Christ," as "baptized in his name; the scripture no where approving any other chs. that we read of." It is given at p. 307 of Exbt. VI.

Mr. P. read also from this Epistle the words (see Exbt. VI. p. 309), "if any shall judge, [&c.]...we desire all such seriously to take notice, that true love and charity is not the soothing of any in their sins, the healing of wounds slightly, the crying peace, peace, when sudden destruction is at hand;" which he thought was strong proof that "the latitudinarianism of the argument on the other side was utterly unknown then."

"Therefore...as far as the London Cfsn. is concerned," and the "testimony [which the above] documents bear to the principles and practice of the denomination at the time," he thought it would be found that the "*express statement of the 33rd art.,...which makes the visible ch. [consist of] baptized believers, is repeated...by Mr. Spilsbery, [in the Heart Bleedings],*" and that the said article "was rightly understood and rightly expounded, in its more detailed application to *ch. ordinances*, by Mr. Cox, when he said expressly,...bearing his testimony to the practice and principle of the *denomination*, that it was *not their custom to admit into cmn. [in the L's Spr.] any but those who were baptized.*"

2. "Was any more latitudinarian view entertained by the framers of the subsequent Crsn. of 1677? The more [it] is examined the more clear it will appear that there was not...They identify themselves completely with the Cfsn. of 1646." Mr. P. read part of the Address to the Reader; from the words "It is now many years," to the words, "the reason and occasion thereof," in which they say, that "divers of" them had joined in publishing the London Cfsn.; that their end in publishing this new one was to give testimony of their "*firm adhering*" to that, and that though their "*manner of expressing*" their sentiments in this, is different, yet "the substance of the matter is the same" with that of the London Cfsn.

"To understand rightly," said Mr. P., the place of the Cfsn. of 1677, "in this argument, it is necessary to *appreciate its objects and aims*, [as stated] in the sequel of the passage, part of which I have read; my ld. friend, with becoming candour, says....it is obvious that a main purpose...was to inform the outside world, those who persecuted, those who slandered this denomination, who confounded them with the Anabaptists of Munster, and the like,...of their error; and to present, so far as possible, the points on which, *being agreed among themselves, they also approximated to, or substantially agreed with, other Protestant bodies in this country*....These articles were not issued as...tests at all; but...as manifestoes to the world, as *declarations of agreement*, as far as possible, *with other bodies*;...and...there might be points of essential importance in the government and administration of particular cgn.s, which...would not have entered into a document of that kind." Their reason for expressing themselves, so far as they could, in the very words of the Westminster and Savoy Cfsns., was to show "their agreement in the doctrine and fundamental principles of the Christian religion, not only among themselves, but with other bodies to which no such enormities had been imputed... In a document of this character, the absence of such *positive statements* as [those] in the antecedent documents (...here not dissented from, but recognized), as to the necessity of baptism, as to...the visible ch., and cmn...can be no matter of wonder, if it appears that the introduction of them would have involved, not only *the condemnation of some opinions...entertained by individuals even among themselves*, but, which is of more consequence, would have brought prominently forward a *cause of alienation from others*, with whom, as far as possible, *they desired to place themselves in relations of sympathy by this publication*."

Mr. P. referred to "the TITLE" of the Cfsn.; to the words, "cgn.s of Christians *baptized* upon profession of their faith."

"No one can read," he said, "the passages to which my ld. friend referred in chap. 26, on the subject 'of the church,' (Exbt. VI. pp. 219—224), without seeing that....everything is omitted there except general propositions on the subject of *spiritual* requisites to the constitution of a ch., which [the Independent, Presbyterian, and Episcopalian bodies] would acknowledge." To that definition each body would "have its own *differentia* to

add, which would not...*exclude the salvation* of others who may compose what is called the *invisible* ch.; but for the purpose of the definition of the *visible* ch., [those *differentia*] would exclude those who did not adopt the same view. ...An Episcopalian might [thus] define the ch. to which he belonged;" though "ministers rejecting Episcopal government... would not be designated ministers of [it. In it no] one could be admitted to the cmn. without baptism," for there "that is not an open question...If I do not mistake, every single Christian body would apply to itself the language here, like the language of the corresponding article of the Ch. of England, (which on this subject, is extremely general\*), but [would do so] quite consistently with supplying things which would not be introduced when the object was to bring out points of *agreement* rather than points of *difference*....It is clear that there is not a word here *inconsistent with* the existence of...some notion of a ch. which would involve language of definition such as that you have in the Cfsn. of 1646, where the words '*baptized believers*' distinctly occur, and which Cfsn. is recognized in all these documents...I cannot help thinking that pss. 12 and 13, of chap. 26, of this Cfsn. (Exbt. VI. p. 223) have a bearing not by any means favourable to the defts.' view." Mr. P. then read them. They state that "all believers are bound to join themselves to particular chs.," and that "no *church-members*...ought to.. absent themselves from the assemblies of the ch. or *administration* of any *ordinances*" on account of any personal offence given by fellow-members; which seemed to imply that those admitted to *church ordinances*, including the L's. Spr., which was "to be '*observed in [the] churches*,'" pp. 225, 227, are persons who have *joined themselves to that ch.*; and it seems not by any means to favour the notion now entertained, of the *distinction between cmn. and membership*."

In reference to the passage in the APPENDIX to this cfsn. beginning "We are not insensible" (see p. 58, preceding), Mr. P. said, "there is no evidence...that there were any persons present on that occasion except [from] chs. *constituted only of baptized believers*;...if there were any such, yet that association, in *this kind of meeting*, was not a thing *ejusdem generis* [of the same kind] with church-cmn.," and persons could unite "in a meeting of this sort, with ministers from other

\* "A cgn. of faithful men," &c.

chs., differently constituted, with which ch.-cmn. would be impossible and inconsistent with the principles of most of the persons present. We have it expressly declared (and...this is an unmistakable proposition) that it was the known state of the consciences of many of them, not only that they could not hold ch. cmn. with any others than *baptized believers in their own chs.*, but that they could not hold it with any other than *chs. constituted of such.*" In the statement "some others of us have a greater...freedom in our spirits that way,...those words 'our spirits,' plainly show," he said, "that individuals are referred to there, and not *cgns.*...It comes to this, that there are some individuals in the meeting who take a different view of the subject,...and [the meeting] in order not to offend or exclude from combination, where combination is possible, persons holding those divergent opinions, say, 'we have purposely omitted the mention of things of that nature, that we might concur in giving this evidence of our agreement both among ourselves and other good Christians, in those important articles of the Christian religion, mainly insisted on by us.'"

"Sir, I cannot help thinking that that passage by no means points...to the matter now in question, the controversy about open or strict cmn. in *Bpt. chs.*...[but] to this, that some...persons who were present there, held themselves at liberty to hold cmn. with Presbyterians, or Episcopalians, or Independents....There is not a word which points to the question whether in any *Pr. Bpt. ch.* at that time, it was lawful for any person to admit to cmn. those who were not *Pr. Bpts.*, or not baptized believers; and having the passages...in the earlier *Cfsn.*, with which this is meant and declared to be consistent, I think it is manifest that you cannot infer from that passage anything at all at variance with it."

3. As to THE *CFSN.* of 1689, Mr. P. referred to the "Narrative of the Proceedings" of the messengers (see *Ivimey*, I. 488), showing that they met to consider the state of "the baptized chs.," and he read the 1st and 2nd *preliminaries* agreed upon by them; the first limiting their action to "counsel and advice," the second stating that "wherein one ch. differs from another...in point of cmn.... we shall leave every ch...to walk together as they have received from the Ld." That is, said Mr. P. "according to its own principle which it has adopted, a principle which it considers itself to

have received from the Lord,...as matter of *Divine obligation.*" Mr. P. said, that even assuming, which he would "presently show [was] assuming a great deal more than" could be proved, yet assuming that this reference was to the admission of persons unbaptized, it did not prove, as the other side alleged, that "according to the usage and tenets of *Pr. Bpts.* at that time, it was competent for every" *Pr. Bpt. ch.*, "whenever it pleased, to pass from strict to open, or from open to strict cmn.; that it was in every such ch. an open question." The language implied that the chs. whose messengers were admitted, might as to certain points, be "*onech., of one principle, and another of another,*" but "where," said Mr. Palmer, "is the warrant for [the] conclusion that each of those chs. might depart from its own principle. It seems, on the contrary, to imply that each will adhere to its own principle, whatever it is; that...the associated body does not pretend to interfere with it." If open cmn. was "one of the things there referred to, the most that can be inferred is, that it was not considered necessary to refuse to act in common...in an assembly of this description."

"To that, Sir, I must add, that it is bare hypothesis and mere assumption that reference is [there] made to this question of open or strict cmn.,...because your Honour will find it in the evidence,...that...outside this controversy, there had been variations in the rules, and laws, and constitutions, of particular *cgns.*, and that some had "adhered to tenets and practices connected with the subject of cmn., which had not been of universal reception," such as the laying on of hands after baptism, as mentioned in the 1st afft. of Mr. Norton, ph. 8. It is a mere *petitio principii*, that the words refer to the question of open cmn. at all; but if they do...it would be simply a disclaimer of interference with particular *cgns.*...not the least in the world authorizing the supposed general rule, that...there was to be an unlimited licence of *changing de die in diem*, whenever it might suit the will of any particular body to do so."

"My 1d. friend, insisted that there was one ch., at all events," whose messengers were "present there, which at that time practised open membership:—*Broadmead*, at *Bristol*; and...having so stated at the conclusion of one day's argument, we were led to believe we should have other instances furnished when the Court met again."

THE MASTER OF THE ROLLS. "I requested that they would give me as many as they could find."

Sir H. CAIRNS said, "I gave you the passage from Mr. Norton's aft. as to Broadmead and Mr. Vaux. I was satisfied to leave it there... We think there is another [instance], but you may take it that there is only one."\*

Mr. R. PALMER said, that Mr. N.'s statement (Aft. I. 34), viz., that in 1746, the Broadmead ch "had, *since* 1733, been strict," might lead Sir H. C. to "infer that Mr. N. meant to admit that" Broadmead was mixed in 1689; but Mr. N. "did not mean to admit anything of the sort. ... That Broadmead ch., like Mr. Jessey's, is a ch. of which the character was very ambiguous;" and Mr. N. did not mean "to state anything as to [its] practice... in 1689." In his 2nd aft. ph. 3, Mr. N. said that it seemed to have been "at first composed wholly of Pædobaptists," and that though "from 1653 [it] had, for some time," both Baptist and Pædobaptist members, "it was called in 1654 an *Independent* ch., Broadmead Records, p. 47, note 6; p. 44, note 5. My 1d. friend," said Mr. P., "has the book in his hand, and if the citation is not accurate, he can correct me."†

THE MASTER OF THE ROLLS. "Read it from the affidavit."

Mr. R. PALMER. "Yes, sir. Mr. Norton's citations are generally so accurate that I do not think I need refer to the book."

Sir H. CAIRNS said, "Perhaps my 1d. friend will let me put in the quotation from the book. It is called 'the Independent Baptized People.' [This was not one of the quotations made by Mr. Norton, as was evident both from the words, and the difference of page. Mr. N.'s quotations were from pp. 47 and 44. This is from p. 55. Ed.]

Mr. PALMER read the note at p. 47, to which Mr. Norton had referred; and said

\* No evidence was given by defts. that even this one ch. was at that time mixed. Mr. Norton's aft. was referred to as *admitting it*; but it did not do so. The records of the ch. are lost from about the close of 1687 to 1720. There were but thirty unbaptized members out of 166 in 1679. Does any evidence exist as to whether the ch. was mixed or strict in 1689? Ed.

† In the notes at pp. 47 and 44, the Broadmead ch., as Mr. Underhill, the editor, admits, was called "the Independents," by Mr. Sewell;—and "the *Independent* ch.," (as distinguished from "the baptized ch." at the Pithay,) by Mr. Hollister.

that the editor of the Records had put in the words "the Broadmead and Pithay churches," as the meaning of "the *Independent* and the baptized chs.," and that it did not seem to him that the word *Independent* was disclaimed by the editor of the Records at all, as applied to Broadmead, in distinction from the "baptized ch.," at the Pithay. He did not think the subject "of any importance;" all he had to say on it was that the ch. seems to have been originally "composed of Pædobaptists," and "to have had the name of *Independent*;" that "from 1733 it practised strict cmn., and there is no distinct evidence to show what was its practice.... in 1689. But that if the fact were that... [it] did practise the looser principle of cmn. in 1689, then I would readily admit that this would probably be one of the things referred to in the passage I have read;" that "they recognize a community of *interest*, notwithstanding a difference of principle," and that "the meaning of the passage is, 'Let the ch. from which we differ have that liberty which it claims; we shall have ours, and shall walk as we have received from the Lord, following our own principle and our own practice.'"

In 1693, a like assembly confirmed their adherence to the former Cfsn., and resolved "that a Catechism be drawn up," by Mr. W. Collins, Ivimey I. p. 533. "That Catechism was drawn up, and we find this account given of it in the Preface to the Hanserd Knollys' Society's collection (Exbt. VI. p. xv.)... 'From his judgment and knowledge, Mr. Collins... was well able to produce a satisfactory work. It has often been reprinted, and continues to be the *only catechism of value* among Baptists...' Then he says... 'The catechism here reprinted, together with the several Cfsns. of Faith, will give a complete idea of the prevailing doctrinal sentiments of the Baptist body in the 17th cent.'" Mr. P. then read from the Catechism the answers to questions 102 and 103. The latter states that "the proper subjects of this ordinance" are "they who have been baptized," &c. Mr. P. again drew attention to the fact that the Catechism emanated from an assembly "of the *same character*" as that of 1689, and also to what had been said of its many editions and value.

4. THE ORTHODOX CREED of 1678. Mr. Palmer said he thought his learned friend right in saying that it "emanated from the *General Baptist* body." He had been unprepared "for the suggestion

that it was *not relevant to the matter for which it was introduced*. It was not introduced," he said, "by us, but...as part of the defts.' case;" but "there is no where, that I can see, *any suggestion of a difference of principle or view* between the Gl. and the Pr. Bpts. on.. open cmn. or open membership." He then read the passage in the Orthodox Creed, art. 33, which, he said, "Defts. themselves introduce in their Ans., as part of the history of the proceedings;" namely, that no unbaptized person "ought to be admitted to" the L's. Spr. [Gould, Ans. I. ph. 76]; which, said Mr. P., "is quite express and distinct." [See Exbt. VI. p. 152.]

"The other documents which I have read from, in every single portion of them which speaks of the matter directly or indirectly,—when they say anything on the subject of the definition of the ch., or as to the qualification for receiving the L's. Spr.,—whenever they are not silent, they speak in *one sense only*, which is [that]...of the pl'ts...There is not the slightest trace that at any time it entered into the principles of the Pr. Bpt. body, as such, to countenance this extravagant and most latitudinarian notion, that whatever might have been the original foundation, they might at their option change backwards and forwards on this point...which it is *admitted on both sides was never regarded by any of them as open, in the sense of its being indifferent, and variable according to the judgment of men.*"

II. HISTORICAL ILLUSTRATIONS; and THE TEACHING AND PRACTICE OF PARTICULAR MINISTERS. "There are *five*... and only five persons named as having advocated [free-cmn.] in the 17th cent., which is the more material because it is admitted that the controversy dropped after Bunyan's time, and was not revived until the latter part of the 18th cent., at a period considerably later than...the endowment of this ch....[They] are JESSEY, TOMBES, KING, PALMER, and BUNYAN....The passages...extracted from the writings of King and Palmer, have no bearing directly or indirectly on the question—not the slightest; therefore we have really only to deal with Jessey, Tombes, and Bunyan. This argument, when the facts are understood, also recoils against those who have brought it forward, and becomes pregnant with evidence that the doctrine and practice of the Pr. Bpt. denomination was such as the passages I have referred to, *prima facie* prove it to have been, and as its very name, and the very existence of the

denomination, seem to witness...Jessey and Tombes were not Particular Baptists,\* neither was Bunyan; at all events, not in any sense material to this controversy. Although he might with a certain latitude, have the name applied to him, yet...he assumed an *isolated, exceptional, and differential* position, of his own, making his position no evidence whatever of the rule or practice of Pr. Bpts. in general."

As to Mr. KING, 1650: Mr. P. asked what there was in his words, as quoted by deft. Gould, Ans. I. ph. 40, p. 56, preceding, that the "saints should break bread," to "imply that he supposes the saints to be unbaptized?" and said, "They are entirely *neutral* with regard to this controversy..."

As to Mr. ANTHONY PALMER's treatise of 1654, [Gould, Ans. I., ph. 41, p. 56, preceding]: the learned counsel, after reading the extracts, said, "There is not one single word there with respect to baptism one way or the other." †

As to Mr. JESSEY: Mr. P. read an extract from Afft. II. ph. 3, of Mr. Norton, and its references to Crosby, and to Hanbury's Memorials relating to the Independents, and said, Mr. Jessey's ch. "was therefore not only an *Independent* ch., so called as well as so being, but the first founded of all the Independent chs. Mr. Jessey became pastor...[when] still a Pædobaptist in opinion, in 1637;... adopted the Baptist opinion, and...was baptized...in 1645; but Mr. Hanbury, the historian of the Independents, says that his cgn. 'were *few*, most of them, for infant baptism.'" Mr. P. then read Mr. Crosby's statement that Mr. Jessey's rules of cmn. continued "the same as before," and that he had "always" some Pædobaptists in cmn. with him; and said, Mr. Jessey "continued in the same ch. and chapel, which never altered its character from that time downwards."

Mr. TOMBES "was a minister of the Ch. of England,...became incumbent of Bewdley...was deprived at the Restoration, and after he was deprived, he continued till the day of his death to adhere to the cmn. of the Established Ch. Therefore, one of these two was the case of an *Independent*, the other the case of an *Episcopalian* minister,...

\* Mr. Palmer evidently meant in the sense of being members of Pr. Bpt. chs. Ed.

† Mr. Anthony Palmer appears to have been in 1654 a Church of England rector. No evidence is given that he was then in any sense a Baptist. Ed.

conforming in his *individual* practice to [the Baptist] manner of baptism,...but not adhering to their ecclesiastical communion at all, at any time."

THE MASTER OF THE ROLLS. "What did Mr. Tombes hold on the subject of ch.-government?... [Was he] a Congregationalist? Mr. PALMER said he thought not. "From the fact that, according to the evidence, he adhered to the Established Ch....even after his deprivation on the Restoration of King Charles the 2nd, one would infer he was an Episcopalian... [He] was an advocate, in the same way as Robert Hall, of what you may call, *anti-denominational views*. He regarded almost as anti-Christian those distinctions and differences which led to the separation of one religious cmn. from another. ...He would have been acting in a manner quite inconsistent with his own principles if he had become a Pr. Bpt., or had joined any other specific denomination. ...In all probability he held himself at liberty to communicate with all who would receive him.....It is obvious, therefore, that...those two gentlemen...occupied a position of their own entirely *distinct from the Baptist body*, either Gl. or Pr., and although their examples afford evidence of the possibility of the combination in the same mind of the doctrine of baptism by immersion, with the doctrine or practice of mixed cmn.; yet they are *no evidence whatever* of the practice or principle of the Pr. Bpt. societies on that subject."

"Now with regard to Mr. BUNYAN, he, as well as being a more illustrious man, was also a more pointed and valuable example. My ld. friend,...I think, dealt a little lightly with the subject of the quotations or references which we have given from Bunyan....It is perfectly plain from the passage read from Offor's Life of Bunyan, where he speaks of Bunyan's chapel at Bedford being registered as '*Congregational*,' while a large number of others were registered as '*Baptist*'.... that his position was an exceptional one. Mr. Offor, who was a great admirer of Bunyan, says that Mr. B.'s *church* was a Congregational one. ... In his book about 'Differences of Judgment,'...works II., p. 616,...he as distinctly as a man can, attributes to *the Baptists, as such*, the view against which he is writing. The title of the work is 'Differences, [&c.] ...in Answer to a book written by the *Baptists*,' your Honour will observe that, 'and published by Mr. T. P. and Mr. W. K.,' that is Paul and Kiffin, entitled, ..." Mr. B. most plainly describes the

bk. he is answering, which *asserts the doctrine of strict cmn.*,...as a bk. emanating from '*the Baptists*.'...He imputes to the *denomination as a whole*, the work of Paul and Kiffin." Mr. P. then read from the Introduction of Mr. Bunyan's treatise, his complaint that "the brethren of the baptized way," had been trying for 16 years to break, as he said, his ch. "in pieces, merely because we are not, in their way, all baptized first." "I agree," said Mr. P., "with my ld. friend, that the words, 'the brethren of the baptized way,' are to be translated 'the Baptists.'" Mr. P. said that Mr. Bunyan argues "that there is no *scriptural* foundation for that view,...frequently repeating the same phraseology, which shows as often as it is repeated, that he is a witness to the fact that the doctrine which he is opposing, was the doctrine of *the Baptists, as such*, at that time. At p. 618 [vol. II.] he says, 'If you and the brethren of *your way*, did think it convenient to show to the world what you held,\* if perhaps by that means you might escape the prison, why might not I' do the same." Mr. P. then quoted a passage at p. 640, col. 2, bottom, saying that his opponents counted "all the godly in the land that are not of our persuasion, unfit to be communicated with;" also a passage at p. 611, beginning, "But how came Diotrephes so lately into our parts," and ending, "or else withdraw till we had done." Also a passage from p. 648, as to what he wished to be called. "Since you would know by what name I would be distinguished from others,...I choose...to be called a Christian.... And as for those factious titles of Anabaptists, Independents, Presbyterians, or the like, I conclude that they came neither from Jerusalem, nor Antioch, but rather from Hell and Babylon; for they naturally tend to divisions; you may know them by their fruits.' We are not discussing here who was right, or who was wrong,... [but] whether Mr. Bunyan is a witness to the practice and principle of strict cmn. having prevailed among the Bpts. of that day, or [otherwise]. I leave it to your Honour to say on which side he is a witness."

"Then, Sir, if that be so, we have really got to the end of the 17th cent., with this state of things, [as to the] Cfsms.,

\* As Bunyan was writing in 1673, this must refer to the London Cfsn., and is additional evidence that those who joined in it were all Strict Baptists.

[and as to having] no individual capable of being brought forward, to show the existence of any such liberty as is now insisted on in the Particular Baptist denomination, except JESSEY, an *Independent*, TOMBES, an *Episcopalian*, BUNYAN, a *Bunyanite*, who says he was a Christian, (and I believe he was a very good one), and KING and PALMER, who say nothing at all on the subject."

III. As to local ASSOCIATIONS of cgn., the BAPTIST ELEEMOSYNARY FUND, THE BAPTIST BUILDING FUND, COLLEGES, and MISSIONARY SOCIETIES, Mr. P. said, that "even independently of the absolutely modern character of the whole of that evidence...[and that it] would, because of its date, and of the circumstances under which it is brought into existence, be very inconclusive, even if it had a direct bearing on the matter;" yet, besides that, "the whole of it relates to a species of combined action, which *might very well take place between bodies which were divergent in some of their principles*, although none of them holding principles mutable at pleasure, according to the will of each particular cgn."

"Take, for example, the case which my learned friend put in his argument, the case we have shown by our evidence to be *the real one*. My learned friend said, If, when this chapel was purchased, it was desired to secure the maintenance of strict cmn. in this chapel for ever, words should have been introduced which would have had that effect. We, on the other hand, have shown that in the year 1858, the Managers of the *Building Fund* thought rather that the *onus probandi* [burden of proof] was not on those who considered the chapel dedicated to strict cmn., and that there was no safety for those who wished to act on the contrary view, unless they added, to the general formula, words giving *an express power to admit persons to cmn. on the open principle*. But...no one can doubt that if you have a deed expressed *either in the one form or the other*...the terms of the deed would *not be mutable* at the pleasure of the particular cgn. The mere fact of that cgn. being able to associate in works of a public character,... with others which were founded on a different principle, would be no evidence of the *variable or mutable character* of the particular constitution of any one cgn. It would be evidence only of this, that whatever the differences between them were, these did not extend so far as to prevent that species of combined

and concerted action that was found to exist...The opinion that you are to subscribe only to a society which is exclusively composed of persons of the same creed, is so far from being the prevailing opinion, that in the Bible Society...even the doctrine of the Trinity is not insisted on....If you find in bodies of this kind a combined and mutual action taking place, which does not involve the particular point itself, then you see that whatever may be the true view of the" cmn. question, "yet that is not violated by this species of fraternal, charitable, and combined action which exists: and it would be the greatest mischief in the world to say you are to imply the relinquishment, the surrender, the compromise of the original principle of any particular cgn., merely from the fact that its ministers and its members have been able to meet together, and to subscribe together,...for the education of young men, for the conversion of the heathen, or even to, consult in general assemblies concerning the external common interests of the whole denomination; always recollecting that not one of these bodies has ever claimed or exercised the right of dictation, or authority over any of these cgn.s."

"Sir, in addition to these remarks, which seem to me to cover the whole of the ground on that part of the argument, I cannot but remind your Honour that the whole of *that*, and indeed a great part of the *entire* line of argument, adopted on the other side, would have been just as applicable IN LADY HEWLEY'S CASE, for example, as here; because no doubt it does happen in bodies which have not guarded against the occurrence, *by tests*, and other such safeguards, that the inevitable constitution of the human mind, on these abstruse and difficult subjects, leads to changes... of opinion, of which, when once set in motion, nobody can tell where they will stop. They are contagious, and affect large bodies. Mind catches mind, and in the end the whole of the community becomes leavened with principles or opinions which were not at first perceived to involve conclusions contradictory to those originally held, but which afterwards turn out to do so; and contrary opinions are in due time accepted. That is the case we know of the ENGLISH PRESBYTERIAN BODY; taking the decision in Lady Hewley's case to be law. We know that bodies, which originally held the strictest Trinitarian doctrine, began first, on principle, to

*reject tests*: and when the question was mooted among them, whether they would apply a test, to prevent the growth of Arian opinions, they declined, in several assemblies, and with the concurrence of men of great authority among them, to do so. We know, that the consequence of the course so deliberately taken on the subject of tests was, that the opinion which they refused so to exclude, gained way more and more among them, until at last, *the whole Presbyterian body in England, and a large section of it in Ireland*, was pervaded with Socinian or Unitarian principles, directly contrary to the Trinitarian principle with which they started. And yet, in point of law, it was held, that that was *no kind of reason why the original principle should not be enforced with regard to trusts of property which had been created in favour of the denomination formed upon that principle.*"

"Sir, there is another consideration;... [no] member of all these bodies...is tied by any *external authority whatever*, to his actual position; therefore his own mind has full play on this subject; the influence of his mind on other minds has full play, and there is nothing which aims at checking or coercing it. Many, too, of these bodies have no trusts, no endowments, nothing on which the law can take hold, nothing which is incapable of fluctuating with the opinion which may from time to time prevail, however widely that may diverge from the original principles of the body...[And] unless you have a trust to enforce,—if [a society] depends on voluntary means, supplied by voluntary subscription, that species of change cannot be in any way controlled. Therefore, under these circumstances, we meet with a number of mutable conditions, naturally affecting the general external history of such bodies, many of which are quite independent of the question, *What were the proper doctrines, the characteristic opinions, the original constitution, of the denomination itself?* This shows the extreme danger of judging *ex post facto*, on changes of opinion which, after years of controversy, the influence of particular minds or circumstances may have introduced; and of forming from their existence any conclusion as to what the original constitution of the body, in which they now exist, was."

"Sir, those observations, I think, will, on the one hand, affect the question as to the *present statistics*, which seem to me of no great value; and will, on the other hand, make it improper for me to refer

to such evidence as there is of some instances, (in Wales, for example), where a laxer principle having been once adopted, the chs. became almost all of them converted subsequently to the strict principle."

IV. THE CONTROVERSY IN THE 18TH CENTURY. "I will accept (without any inquiry, whether it requires modification or not) the statement that the controversy slept from the 17th cent. till the end of the 18th; that then Mr. BOOTH was a champion who put it to sleep again: and that it did not revive until the time of R. Hall in the 19th." Mr. P. then quoted from Mr. Hall's works, "a summary of... a History of the Controversy down to that time," from the words, "It is surprising," to the words, "at the price of silence and submission;" (Reply to Kn. Pref., p. xi.) The extract states that from the time of Bunyan's "Water Baptism," to that of Mr. Robt. Robinson's work on cmn., a century elapsed with "few or no efforts to check" strict cmn., "which had gained so firm a footing previously to Mr. Booth's writing, that he felt no scruple in entitling his defence of that practice 'An Apology for the Bpts,'" and that the *few* free cmn. chs. "were very equivocally acknowledged to belong to the general body." This, said Mr. P., "is the clear case of a small minority struggling to maintain, yet hardly daring to maintain, against the prevailing sense of the community, a particular dissentient opinion."

"Mr. Hall was a writer of such ability," said Mr. Palmer, "and of such clear sight, that he was aware of the *tendency* of the views he advocated, and advocated them with a view to the effect which he foresaw." Mr. P. then read from Mr. Norton's 2nd Afft. ph. 3, an extract from Mr. Hall's "Short Statement," p. 46,\* stating that, "were the practice of mixed cmn. universally to prevail...the appellation of *Baptist* might be found, not so properly applicable to *churches* as to *individuals*." "He clearly foresaw," said the learned counsel, "that which he called in one passage, cited from a book read by my learned friend yesterday, 'A silent revolution;' which was the expression he used, when he was recommending that the strict members should be allowed to have a *separate cmn. of their own*. He said that that would soon work 'a *silent revolution*.' He clearly foresaw that the consequence

\* Hall's Works, III. 452.



of that revolution would be, that which Bunyan had so openly advocated, *the loss altogether of the distinctive character of the denomination, its fusion and merger into other denominations, and the eventual loss of the denominational character altogether....* The question here is, whether that object is consistent with A DEDICATION OF THIS PARTICULAR CHAPEL TO THE USE OF THE DENOMINATION OF PR. BPTS. MEETING AT THIS PARTICULAR PLACE?"

V. "Now, Sir, with regard to THIS PARTICULAR CHURCH...Your Honour recollects...that definition of the ch. of which '*baptized believers*,' is an express term [Art. ix. in ch. bk.]; so that whatever may be said as to any other document, it cannot be said that the books of *this* ch. are neutral or silent on that point."

"The *practice*, as I have shown to your Honour, (and I will just produce one or two of the proofs of it,) the practice has been on that subject, perfectly unmistakable and uniform."

Mr. P. then referred to the admission made by the *trustees* in the case prepared for counsel in 1845; also to the admission made by Mr. Brock, and the whole ch. on 28th of June, 1847, that it had always practised strict cmn. [See p. 83, preceding, ph. 39.] He, "Mr. Brock, put his practice on the ground that it was *extra ecclesiam* [outside the ch.], that it was an individual act of his own in using the building, by which he did not compromise or change the character or usage of the cgn. at all. The majority seem to have acquiesced in that view, although there were some who would not, and either eleven or nine, (the exact number is not material,) were excluded because they did not."\*

"The same 9th article which speaks of the visible body of Christ as a company of 'baptized believers,' describes them also as voluntarily agreeing '*to walk together in obedience to Christ their Head and Lawgiver, in all the laws and ordinances of his house* ;...we may not alter anything, but do all according to the pattern'; implying, therefore, that *any change* from that which was assumed, by those who held it, to be of Divine obligation, is *utterly contrary to the basis on which that ch. was formed*."

\* The eleven who were excluded were not the only persons who did not acquiesce in, that is, were not satisfied with, the new service. See pp. 64, 65, preceding remarks on answers to ph. xvii. of Bill. Ed.

Mr. Palmer said, as to "THE HISTORY OF MR. KINGHORN'S VIEWS...Mr. Kinghorn...desiring to fortify himself with arguments on both sides, before he, in his own mind, felt that he was master of the subject, corresponded with his father, and manifested in that correspondence a very strong sense of the inconsistency of the practice of open cmn. with the principles of Pr. Bpts. On the other hand, emancipating himself at the time from the influence of the principles of that particular denomination, he thought there was force in some of the general grounds, on which, as a matter of duty, the opposite view had been advocated, and he desired to inform himself fully and impartially on the matter. There is not one word in all his letters, which implies in the slightest degree whatever, that he thought at that or at any other time, that it would be consistent with his duty to the cgn., that he should remain minister of it, introducing and practising open cmn. there, even if he should come to a conclusion in his own mind in favour of that opinion; because it was always open to Mr. Kn, as it would be to any minister, if he came to a conclusion that was inconsistent with his duty and position, to leave that position and to get a new one...While people are in a state of transition, they do not alter their *positions*, until they arrive at conclusions which are incompatible with them...The example of Mr. Kinghorn would have amounted to no more than this, if it had appeared, which it *does not*, that there was ever the slightest tendency in his mind to the adoption of the '*open*' conclusion...."

Of "passages as to DISCIPLINE, in the different ch. bks.," Mr. P. said, that "the general result of them" is to show that "those who administered, from time to time, the government of this ch.... were so far from introducing the notion of latitudinarian cmn., the notion that any one without church-membership could communicate, that they seem to have thought it proper to *exclude* persons from this cmn., both on doctrinal and other grounds, and particularly [for] associating in religious worship with *Quakers* and with *Methodists*. ... The fact of that being done, seems to be a plain proof that the *denominational principle* was correctly understood, and strictly acted upon, and that it was held, not merely to be a matter as to which the church itself was strict, but to be a matter, as to which the obligation of strictness extended to every individual

member of that ch. I will say no more on the subject of particular instances than that I feel quite sure their tendency as a whole, and their tendency in detail, is only one way, namely, to support the view of the informants, and not that of the defts.

"Sir, there is ANOTHER MAIN ARGUMENT;...that is, that by virtue of the inherent *independence* of every cgn., there must be the power of doing this [introducing free-cmn.] That is a mere *petitio principii* [begging the question], for it will not be asserted that independence of external government is to go so far as to entitle them at their pleasure, utterly to depart from every principle on which they have been constituted. It will not be argued, that because they acknowledge no Pope, no Convocation, no Synod, no General Assembly, as having any authority over them, that therefore the Court of Chancery is to be considered as usurping the power, and the functions of a Pope or Synod, and imposing upon them what, by their agreement, they exclude, merely because its aid is invoked and given to hold them, in respect of property given and taken in trust, *to the fundamental principles on which that trust was established*...They will not pretend to say, I should think, for instance, that it is consistent with the liberty of this cgn. to turn it into a Presbyterian ch., or an Episcopal ch. It is obvious, the *liberty* of this cgn. is a liberty which has its limits. Your Honour is engaged in investigating those limits, and learning whether those limits include the *total extermination and obliteration of all distinctions, in respect of membership and cmn.*; because, I repeat, the entire effect of the evidence is to show that if they may do what they claim, as to cmn., they may do what they do *not now* claim, but what their principle, of necessity, involves, as to *membership*, to-morrow. It is clear they could not make it a Presbyterian ch., or an Episcopalian ch., or a Roman Catholic ch.; and therefore they cannot do what they like. The question is whether a *majority* is to be able to alienate it from its *original denomination*, by introducing a system which, in its present stage, that of open cmn. [in the L's. Spr.], goes far to obliterate the adherence to any standard; which, if carried on to *membership*, would obviously make it possible that *every member of this community might be an unbaptized person*. The principle, and the test of arguments founded on principle, is fairly discovered in extreme

cases. On principle, what one may do, all may do. If it be right to admit one unbaptized person, there is nothing to *stop* the operation of that principle in practice....And the result practically is, or may be, the alienation of this chapel from the community of Pr. Bpts. altogether."

As to "the EXCLUSION [of part] of the relators and plffs. and those who agree with them;...it must be obvious to your Honour that the question comes to be this: SHALL THOSE WHO ADHERE TO THE OLD PRINCIPLES OF THE BODY BE EXCLUDED, OR SHALL THOSE WHO DEPART FROM THEM BE RESTRAINED? That is the alternative, Sir. It is *no perverseness, or insubordination, or refusal to obey discipline*, in these individuals—the plffs., which causes this question to arise in its present form. Mr. Kinghorn foresaw, and pointedly stated, what would happen if such attempts were made."

Mr. Palmer then read a passage from Mr. Kinghorn's last work on cmn., published in 1827, entitled "Arguments against the Practice of Mixed Cmn.," pp. 51—53, commencing at the words, "Another objection." Mr. Kinghorn there says, that "if a strong party should rise up" in a church composed wholly of Baptists, in favour of "the admission of the unbaptized to cmn." the members opposed to it "would be compelled to say,...if this point is carried, we must leave you." They would say further, 'you *knew* the general sentiments of the ch. before you entered it, you *knew* that we had always received only those who were baptized; you requested us to receive *you*; and now you would exclude *us* who agreed to admit *you*. They would also probably add, as with good reason they might,...if your intention is to take measures which will expel us from our *home*, we shall not be able to suppress the feeling that you have robbed us both of our privileges and of our property. We have often heard the Unitarians censured for keeping possession of the places of worship, and other property, of the old Presbyterians, after they had introduced a new doctrine, and driven away those who could not give up the faith of their fathers; and if you follow their example, and by breaking the constitution of our churches, exclude those who persevere in the sentiments on which they were formed, and which hitherto they have maintained, though the two cases differ in magnitude, yet the *disingenuousness* of the conduct is of the same nature."

"It is remarkable," said Mr. Palmer, "that the passage which I have read prophetically describes what has now taken place. When Mr. Brock was elected, he actually signed\* a written engagement, that he would not disturb this question. When Mr. Gould was ordained he did not indeed do that; but I think it appears from the evidence, that in the sermon preached on that occasion, strict cmn. was set forth with distinctness as the doctrine and practice uniformly of this ch.†

"Well, the majority *admitted*, (as my learned friend with his usual candour has admitted), the truth of that passage in Mr. Norton's aft., which echoes only what Mr. Kinghorn has said, that *neither party looks on this point as a matter of indifference*, (I have here something in Mr. Gould's handwriting, in which he takes as high ground from his own point of view, as the other party does, each viewing it as a matter of *positive obligation* to act on their own principles,) the question is: *which are to be excluded? ... Those who persevere in the sentiments which distinguished the congregation when they became the possessors of the property, or those who, coming in with full notice and knowledge of those sentiments, and of that constitution, subsequently, with the help of a majority, endeavour to change it?*

"It is said to be A BREACH OF DISCIPLINE on our part not to acquiesce in the vote of the majority, although, as far back as 1677, we have it on record that those who practised strict cmn. made it *a matter of conscience* to do so. No one, in the face of history, can represent it as a matter of perverseness, self-will, or caprice. It is a matter of conscience. It has been known to be such from first to last, and if this Information should not succeed, then those who on conscientious grounds adhere to that which

from the beginning has existed, until it was violated by Mr. Brock in 1845, *will be turned out from their own ch. and cgm., to make way for the new opinions of others, at the mere will of a majority.*"

VII. THE PRAYER. "Sir, I have done, in substance; but I desire to make an observation on two passages in the PRAYER, which we do not wish to be misunderstood about. My learned friend considered that it asked for exclusion *from any presence in the building or worship whatever*, of those who were not baptized in the manner therein mentioned. This is *not* the meaning of the passage, and if there are any words which may be thought to convey such a meaning, they may be easily omitted and easily changed.

"The other passage is in the 5th ph., which asks that Mr. Gould may be removed. We have no personal feeling of hostility against Mr. Gould, and we have no wish whatever to remove him. If we can attain our object of vindicating the constitution of the chapel, and if Mr. Gould can acquiesce in that, it will give sincere pleasure to all for whom I appear, that Mr. Gould should remain the minister.‡ But the Information was of necessity, so framed as to disable the depts. from alleging that the plts. had come into Court without enabling the Court to give full effect to the principle, and to follow out that principle, if it were found necessarily to require a change of minister...."

THE MASTER OF THE ROLLS. "I will look through the papers before I deliver judgment. Let me have any of the books that you think it necessary I should refer to. I should like to have the Hanserd Knollys' Book. I do not want the works of Robert Hall. I have them."

[The reports of the speeches of Counsel from which the above abstracts are made, coincide in everything material, with those printed by Mr. Gould, in his volume entitled "Open Communion and the Baptists of Norwich." ED.

\* Mr. Brock himself wrote thus in the ch. bk., and though he did *not add his name*, yet the effect of his hand-writing was precisely the same as if he had done so; that is, "This matter having led the ch. to resolve, that such difference was by no means incompatible with my acceptance of their invitation, so long as I undertook not to moot the question of open cmn. at St. Mary's, I did accept it on the 31st of May, [1833]."

† Mr. Palmer probably referred to the statement made in the name of the ch. at Mr. Gould's ordination. See p. 15, col. 1, preceding.

‡ Counsel, in making this statement, acted on the general impression which was derived from the nature of the brief, not from express direction; and though no ill-will was felt towards Mr. Gould, it is not likely, after what had occurred, that the strict members would have held that Mr. Gould was the most suitable person to continue to be their pastor. ED.

# ROLLS' COURT.

TRINITY TERM,

May 28, 1860.

BEFORE

THE MASTER OF THE ROLLS.

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The Attorney-General v. Gould.

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## JUDGMENT.

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THE MASTER OF THE ROLLS.—*The question brought before me*, on this Information, is whether, having regard to the trusts of a Deed establishing, for the use of Particular Baptists, the chapel in the City of Norwich, that building may be opened and employed for the reception of communicants who have not been baptized by immersion upon a profession of faith, although in all other essential particulars, whether in faith, in doctrine, or in holiness of life and conversation, they concur with those who are the full members of that church. In other words, whether strict communion is to be the future rule in the practice of this chapel, or whether the communion is to be open to all those who profess the same doctrine, and act in such a manner as to show that their professions are not mere empty words, and who may apply to participate in such communion, although they have not been baptized by immersion on a profession of faith.

The question has been argued before me with great learning and ability, and at considerable length ; but *the question I have to determine* is, in my opinion, confined within very narrow limits. It does not lie within my province (nor have I any desire), to look beyond the law of the case, or to consider what may be the consequences of my decision on the large and influential class of dissenters comprised within this denomination, and which has always contained among its members men possessed of great learning and varied attainments. Neither am I at liberty to speculate upon, or to examine, the various passages of Scripture which relate to this subject, for the purpose of ascertaining what might be, in my opinion, if the matter were *res integra*, the practice most in accordance with Divine writ. I have simply to determine a legal question, which is, Whether, having regard to the terms of the deed founding this chapel, free communion is to be henceforth interdicted in the practice of its members.

*The words of the deed* are these :—"Were purchased for and intended as a place of public worship for the congregation of Particular Baptists within the

said city of Norwich for the time being; and that they (here they mention the names of the trustees) and their heirs then were,...and at all times thereafter should stand..seized of the said messuage and premises in trust, to and for the use and benefit of the congregation of Particular Baptists within the said city of Norwich for the time being, and that the same premises should..be always held and enjoyed for and as their place of public worship." That is the whole of the trust of the deed.

The trust, therefore, being "for the use and benefit of...Particular Baptists," *I am bound to inquire whether the doctrine and faith of Particular Baptists, excluded the practice of free communion.*

Before examining this question, it is proper to observe, that *the mode in which this free communion is administered at present in this chapel, and the full extent to which it is proposed to extend the administration of it for the future,* in case the practice be not stopped by the Injunction of this Court, is this :—The sacrament is so administered, that it does not involve any necessity on the part of those members of the church who dissent from that practice, that they should participate in any communion which is administered to believing and orthodox Christians who have not been baptized by immersion; neither does it make it necessary that the persons who abstain from so participating, should be compelled to abstain from the communion administered to members of the church, who have one and all received the rite of baptism by immersion upon a profession of faith. The practice is, that separate and appropriate occasions are fixed for the communion exclusively of those who have been baptized by immersion after a profession of faith, while other fitting occasions are set apart for the communion of orthodox and devout Christians adopting the doctrines and faith of the Particular Baptists, without regard to the distinction whether they have been baptized by immersion or not.

*The object of this suit* is to restrain the minister and those who concur with him, from using the edifice in question for the purpose of administering the communion to such persons, at such periods of time, and on such occasions, as do not interfere with the convenience or religious observances of those who insist upon strict communion.

*The question, then, that I have to determine* is, whether the minister of this church shall be at liberty to administer the sacrament to sincere and orthodox Christians professing the same faith, without regard to the circumstance of whether they have been baptized by immersion after a profession of faith, but so doing it, as not to interfere with the stricter brethren. In other words, I have to determine whether the employment of the building by the minister for this purpose, is such a perversion of the objects and trusts for which it was established, that it is a violation of those trusts which this Court will interfere to prevent.

*In order to determine this, the first question I have to consider* is, whether it is a *fundamental principle* of the faith of Particular Baptists, that no person should be allowed to participate in the communion, unless and until he has been baptized by immersion, after a profession of faith.

*Five Confessions of Faith* have at various times been promulgated, emanating from assemblies or congregations of Particular Baptists. These are not put forward by the framers of them as binding the whole body to which they are addressed, but they are addressed to the whole class of Particular Baptists, as containing the doctrines which the persons assembled considered to be a fair and true exposition of their faith, and which, as such, might tend to the union and support of their churches, and to the dissemination of their doctrines, and also to the removal of erroneous opinions and prejudices entertained towards them by other classes of Christians. These Confessions were signed by the persons who attended the assemblies, as a test of their approbation. Their views are well expressed by themselves, in the publication of the Narrative of the Proceedings of the Assembly in 1689, to which I shall presently have occasion to refer. These Confessions, therefore, are of high value in the con-

sideration of this question, and it may be fairly assumed, that nothing that was considered to be a fundamental doctrine of their faith would be omitted from these Confessions. An attentive examination of these Confessions has not enabled me to discover anything in them which amounts to an assertion that the communion ought never to be administered to any one who has not been baptized by immersion upon a profession of faith. The nearest approach to this doctrine, is Article 39, in the London Confession of Faith, which is in these words :—"Baptism is an ordinance ;" then it refers to Matthew, and Mark, and John, and the other passages where it is referred to :—"Baptism is an ordinance of the New Testament, given by Christ, to be dispensed upon persons professing faith, or that are made disciples, who, upon profession of faith, ought to be baptized, and after to partake of the Lord's Supper." But even this does not include the assertion of the principle contended for by the Informant and Plaintiffs, and the omission of it from the rest of the Confession, is pregnant with the implied admission that the assertion of that doctrine was not, by the persons who framed or assented to that Confession, considered to be a fundamental principle of the faith of Particular Baptists.

If I turn from the Confession of Faith to *the written opinions of the most eminent writers of the Baptist persuasion*, I find that, even in the earliest times, several of the most eminent professors of that faith, not only did not hold this to be an essential and fundamental doctrine of their faith, but have openly supported and written in favour of free communion. In 1645, Mr. Henry Jessey, and in the following year, Mr. John Tombes, seem to have adopted the doctrine of free or mixed communion. And in 1672 and 1673, the justly celebrated John Bunyan employed his most graphic and vigorous pen, in support of the same doctrine. The majority, no doubt, of the ministers and congregations of the Particular Baptists were, at that time, strongly opposed to this doctrine, and Mr. Kiffin, a gentleman of great learning and authority, who was John Bunyan's great opponent on this question, felt so warmly on the subject, as sometimes to allow his zeal to overstep what would, in modern controversial writings, be considered the just limit of Christian charity, and therein exhibited a strong contrast to his opponent ; but even Mr. Kiffin, and the other ministers of that class of Particular Baptists, took no steps to exclude from their communion persons who, like John Bunyan, adopted the opinion of free or mixed communion. It must, therefore, be considered that it was not by those persons, even when heated with the warmth of controversy, considered to be a doctrine of a fundamental character, or so essential as to constitute one of the necessary elements in the composition of the faith of a true and sincere Particular Baptist.

*The next point* which, by the examination of the Articles on this subject, I find to be established is, that *although in all essential and fundamental doctrines, all churches and congregations of Particular Baptists concurred, yet that, in matters not partaking of that character, not only no one congregation, but not even any assembly of congregations, considered itself at liberty to dictate to any other church or congregation which might dissent from it.* On the contrary, a fundamental doctrine of the Particular Baptists seems to have been, that each separate congregation, constituted a distinct church in itself, forming, with the other congregations entertaining the same opinions, the class of Particular Baptists ; and, together with all other classes of orthodox Christians, constituting the great church of Christ. Accordingly, this principle is distinctly laid down in the *Narrative of the Proceedings* connected with the Assembly in 1689, and the Confession of Faith then agreed to be published. I read this from "Ivimey's History," page 489, of vol. i. of the edition which was handed up to me. After stating what they met together for, and that they began by solemnly seeking the Lord by prayer, they state, they "did conclude upon these following preliminaries, and lay them down as the foundation of this our assembly, and rules for our proceedings ; wherein all the messengers of the churches aforesaid,

in city and country, as well for the satisfaction of every particular church, as also to prevent all mistakes, misapprehensions, and inconveniences, that might arise in time to come concerning this general assembly, do solemnly and unanimously profess and declare :—

“1. That we disclaim all manner of superiority and superintendency over the churches, and that we have no authority or power to prescribe or impose anything upon the faith or practice of any of the churches of Christ. Our whole intendment is to be helpers together of one another, by way of counsel and advice, in the right understanding of that perfect rule which our Lord Jesus, the Bishop of our souls, hath already prescribed and given to his churches in his word, and therefore do severally and jointly agree.”

I omit the second for the present, and proceed to the third :—

“3. That if any particular offence doth arise betwixt one church and another, or betwixt one particular person and another, no offence shall be admitted to be debated among us, till the rule Christ hath given in this matter be first answered, and the consent of both parties had, or sufficiently endeavoured.

“4. That whatever is determined by us in any case, shall not be binding on any one church, till the consent of that church be first had, and they conclude the same among themselves.

5. That all things we offer by way of counsel and advice, be proved out of the word of God, and the Scriptures annexed.”

It would, therefore, follow, from the establishment of the principle here announced, that in all matters—at least not being fundamental—it was part of the constitution and essence of each church or congregation of Particular Baptists, that they might regulate their practice as they thought fit. The inference is irresistible, that, as the practice of free or mixed communion, was not a fundamental point of faith, the practice must be subject to the regulation of each church or congregation, and accordingly, this is distinctly laid down in the second article of the *Narrative*, which I have already referred to, and which I omitted in reading the former paragraphs for the purpose of introducing it here. The paragraph is this :—

“2. That in those things wherein one church differs from another church in their principles or practices, in point of communion, that we cannot, shall not impose upon any particular church therein, but leave every church to their own liberty, to walk together as they have received from the Lord.”

This is, in my opinion, conclusive on this point. It follows, then, from what I have stated, (for this distinctly refers to the practice of churches in point of communion), it follows from what I have stated that, in my opinion, it is established that each congregation was, from the earliest time, at liberty to regulate its practice, either to strict communion, or to free or mixed communion, as it might seem best to such congregation.

That would dispose of the present question, were it not for the consideration of the *Usage* which has prevailed on this point in the chapel at Norwich. This congregation has adopted the practice of strict communion, from its first institution until within a very short period of the present time. I have, therefore, to consider whether that usage has precluded this congregation from altering that practice, and from now adopting the practice of free or mixed communion. On this point the deed does not help the plaintiffs, because the words of it say nothing about maintaining the existing practice. The words are confined to the maintenance and worship of the congregation of Particular Baptists, and the doctrine of communion, as I have stated, is not an essential or fundamental doctrine of the faith of Particular Baptists. It must, in my opinion, arise from a misapprehension of the doctrine of the Courts of Equity, with reference to usage, that any one can be brought to the opinion that previous custom will, in such cases, bind the present congregation.

Having regard to that doctrine, I am at a loss to understand, on what

principle it can be fairly contended, or by what argument it can be reasonably maintained, that a practice not involving fundamental points of faith, and not prescribed by the deed of endowment, can have become so fixed by custom, as to be incapable of alteration, if the majority of that congregation shall be of opinion that such alteration will be more in accordance with the faith they profess, and more acceptable to the Great Being whose ordinances they assemble to observe. Usage is only important, in a legal point of view, where there is an absence of any instrument of endowment, or where the words of the instrument produced are ambiguous ; in such cases usage constitutes presumptive evidence of the trusts on which the charity was established. But when the deed of foundation is produced, and when that deed is precise, that presumption is excluded. Here, we possess an accurate knowledge of the object of the foundation, in the words of the deed of endowment. The words of the deed of endowment are precise. They involve all that is essential for the faith and maintenance of a Particular Baptist congregation, but nothing further. And if I am right in the conclusion to which I have come, that the practice of strict or free communion, forms no part of what is essential for the faith and maintenance of a congregation of Particular Baptists, it follows, that no rule on this subject is prescribed by the deed of foundation.

I am therefore of opinion that this congregation is at full liberty to alter its practice in respect of communion, if such should be the opinion of the majority of its full members.

One argument was addressed to me with some force, and which obviously presses strongly on the minds of the plaintiffs, and on which it is desirable I should make a few short observations. The argument is this ; " If this practice of free communion be adopted, not merely will strangers who have not been baptized by immersion, be admitted into the church, to participate in free communion, but in a short time even unbaptized persons will be introduced to the full membership of the church itself." This is an argument, in my opinion, fallacious in itself, and one which it is impossible for this Court to regard.

Assuming that the introduction of unbaptized persons into the full membership of this church, will be contrary to the trusts on which the chapel was founded—and assuming, also, that the effect of the introduction of free communion will be to induce the persons entertaining that opinion to strive to introduce unbaptized persons into the membership of the church, still, unless the practice of free communion, taken by itself, is a breach of trust, this Court has no right or power to interfere. When the breach of trust occasioned by the introduction of unbaptized persons into the full membership of the church, is committed, it will be ample time to call on this Court to interfere by injunction, and prevent its continuance ; but until it is committed, this Court cannot interfere, by its decree, to restrain something, not wrong in itself, but which may possibly lead to something which it thinks ought to be prevented.

In making these observations, however, I beg to be distinctly understood, as expressing no opinion whatever on a point not before me ; or whether the practice of free communion will be likely to produce that result, or whether, if produced, this Court would interfere. It is sufficient for me to know that this is not the point before me, and that the defendants disclaim any intention of acting in the manner imputed to them.

*The result* is that, in my opinion, the case of the plaintiffs fails ; and I will, at the desire of either party, do this—I will either make a declaration that, in my opinion, according to the true construction of the deed of the 24th of November, 1746, the full members of the church or congregation of Particular Baptists within the city of Norwich, are entitled to adopt the practice of free communion, or of strict communion, as they shall, from time to time, think fit to determine ; or, in the other branch of the alternative, I will dismiss the Information simply ; but in neither case will I give any costs.



SIR HUGH CAIRNS.—So far, Sir, as the defendants are concerned, we should prefer a simple dismissal of the Information, if your Honour thought it right to do so.

THE MASTER OF THE ROLLS.—Very well, I will simply dismiss the Information, without costs.

MR. PALMER.—I am quite sure it is not necessary for me to ask whether your Honour's attention has been distinctly directed to that matter which was the subject of the latter part of the fourth paragraph of the prayer of the Information.

THE MASTER OF THE ROLLS.—I attended to that, but then I considered the argument was solely confined to the questions I have adverted to.

MR. PALMER.—What I meant was, about the exclusion of the plaintiffs. Your Honour did not say anything on that subject, but I do not think it is at all likely that you have overlooked it.

THE MASTER OF THE ROLLS.—I do not consider that the plaintiffs are excluded. On the contrary, Sir Hugh Cairns expressly stated, that the plaintiffs purposely abstained from communion in consequence of the admission of others than members to the communion, and that the defendants would be very glad if they came back; but if they abstain entirely from communion notwithstanding, the necessary rules which follow on such conduct must be adopted in this case as well as in any other.

SIR H. CAIRNS.—It is part of the rules of the church.

MR. PALMER.—I thought the matter had not escaped your Honour's attention, and I only, for the satisfaction of my client, mentioned it, as he wished me to do so.

MR. HADDAN.—Sir, the gentleman whom I appear for, Mr. Allen, has not taken any part in this controversy. He is not a member of the congregation, and has resided for some time at a distance from Norwich. The prayer of the bill is, that the defendants, with the exception of Mr. Gooderson (who is supposed to agree with the plaintiffs) should be removed from being trustees. By my answer, I submit to be removed; and if your Honour will make an order removing my client, he would desire that it should be so.

THE MASTER OF THE ROLLS.—I will do whatever Mr. Palmer wishes about it. It will not affect or prejudice your right to carry the Case further.

MR. PALMER.—I have no wish that any order of that limited nature should be made on the Information.

THE MASTER OF THE ROLLS.—Then I shall simply dismiss the Information.

MR. HADDAN.—There is no power to remove the trustees, unless it is done by the Court.

MR. LINDLEY.—Sir, I appear for one of the trustees. The costs of the trustees will come out of the property of the chapel.

THE MASTER OF THE ROLLS.—What property is there?

MR. LINDLEY.—I understand there is some.

THE MASTER OF THE ROLLS.—They must be provided for in some way or other. I suppose they have property in their possession.

MR. LINDLEY.—I understand that is so.

THE MASTER OF THE ROLLS.—They will be at liberty to deduct their costs in passing their accounts. I cannot make any order on the subject.

SIR H. CAIRNS.—If there is any formal order required about the change of trustees, it had much better be done by the ordinary summons in chambers.

THE MASTER OF THE ROLLS.—I have not, in this case, made the costs follow the event, as I almost invariably do, because I considered this was a question of considerable importance that the parties could not very well avoid bringing before the Court, and that neither party would ask for costs against the other. Therefore it would be better at once to state that I think it desirable that my opinion should be obtained at the expense of both sides, who, I presume, have some contribution from their friends for the purpose of meeting the costs.

MR. PALMER.—No doubt, Sir.

## Remarks on the Judgment.

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THE chief importance of the Judgment is this : that it aids a movement which subverts the constitution of Baptist churches, puts an end to their distinctive church order, and excommunicates, in whole or part, those who adhere to it : that it permits property, which those churches, for about two centuries, have been providing for their use and benefit, to be used for putting an end to their distinctive existence, for opposing the principles on which they were founded, and excommunicating those who adhere to them. No result more opposed, in itself, to what is right and fit, can easily be conceived.

But it is sometimes difficult, in a case which would be clear, if facts and their true bearing were well known, for a Court of Equity fully to ascertain what are the facts, and their true force. Part of the evidence, if not false, may be so given as to lead astray. The question at issue, and the points on which the question turns, may be wrongly, and yet appear to be, correctly stated. And, from this confusion, the judge's eye, though keen for truth, may yet select for guidance that which brings (as when the motion of an engine is reversed), to a conclusion the opposite of that to which the proper thought would bring.

His Honour seems to have thought that some "misapprehension of the doctrine of the Courts of Equity, as to usage," had misled the plaintiffs ; but his Honour's own view of that doctrine, seems to be the same as theirs. They could feel no doubt as to what was, in itself, just ; and "the doctrine of the Courts of Equity" seems, if there be full apprehension of the facts, to require the same judgment, as, in their view, Equity itself does.

I. *The doctrine of the Courts of Equity*, as stated by Lord Lyndhurst in Lady Hewley's case, was confirmed by the House of Lords ; and is the more important because that case was referred to by the present Attorney-General, Sir Richard Bethell, when at the bar, and also by Mr. Roundell Palmer, at the hearing of this Case, as having an important bearing on it. Its principles, however, are of general application, and commend themselves as naturally right.

LORD LYNDHURST said, "*The will of the founder* is to be observed." "If it be expressed clearly in the deed or instrument of foundation, there can be no difficulty. If expressed in *doubtful or general words*, recourse must be had to *extrinsic circumstances*, such as the *known opinions of the founder*, the existing state of the law, the *contemporaneous usage*, or the like." "If the terms which are made use of are obscure, doubtful, or equivocal, either in themselves, or in the *application of them*, it then becomes the duty of the Court to ascertain by *evidence*...what was the *intent of the founder* of the charity,—in *what sense* the particular expressions were used." "I look upon it, then, that these principles are clear and established—that they admit of no doubt whatever." Lord Lyndhurst had, in that case, to decide the meaning of the terms, "*godly preachers*." In order to do this, he first inquired, What were "the *particular religious opinions* of Lady Hewley, the foundress ;" and he said, "Is it possible to come to the conclusion,...that she *intended* to found a charity, and bestow her property, for the purpose of preaching doctrines *directly at variance with her own* ? And this...with respect to points... which *she herself* must have considered as *essential*." "It is almost impossible to suppose that such could have been her view and *intention*." These were the grounds of his decision.

THE MASTER OF THE ROLLS appears to have recognized these principles. During Mr. Palmer's opening speech, he said, "What I must look at principally is, *What was the doctrine at the time of the founders?*" Which implies that he recognized their *opinions* and *contemporaneous usage*, as part of the evidence of their *intention*, and of the meaning of the terms of the deed which define the trust. In giving Judgment, his Honour said that the meaning of those terms is "precise;" that "we possess an accurate knowledge of the object of the foundation, in the words of the deed of endowment;" thus implying that there was *no doubt*, or question, as to the meaning of the words. And yet, in order to decide whether they *meant*, that *only* strict communion should be practised, his Honour himself appealed to Baptist *usage*; relying on evidence like that on which the case of the plaintiffs was founded. There is, therefore, no "misapprehension" as to "the *doctrine* of the Court of Chancery,"—none as to the *principles* upon which its decisions are founded. It is in the *application* of these principles, that the difference exists.

II. THE WORDS OF THE DEED. *What are they? Are they, as to meaning, "doubtful or equivocal, either in themselves, or in the application of them?"* And if they are, "in what sense," judging from "the particular religious opinions," and "contemporaneous usage" of the *founders*, "were the particular expressions used?" By putting these questions we follow in the exact steps, not only of the *principles* laid down, but of the *inquiries* founded upon them, by Lord Lyndhurst; and that in a *ruling* judgment, and one which is *recognized* to be *law* for this case.

1. *What are the words of the Deed?* His Honour says, "The words of it say nothing about maintaining *the existing practice*. The words are confined to the maintenance and worship of *the* Congregation of Particular Baptists." The writer begs to submit, that the latter of these two statements is opposed to the former. For *the* congregation, denotes *this definite* congregation; which, as all admit, was *independent of*, and *distinct from* every other. The words of the deed, therefore, if they say, as his Honour states, that the object of the trust is "*the maintenance and worship of the congregation*," *did* require the maintenance of "the existing practice" in all things *deemed by itself* essential or fundamental to its *constitution and worship*; just as the word "godly," in Lady Hewley's Trust, required the maintenance of what *she herself* thought essential to godliness.

In a sentence occurring soon after the one just quoted, his Honour, instead of the words "*the congregation*," uses "*a congregation*;" thus making a total change in his statement of the nature of the trust; for all see at once the difference between a man, that is, *any* man out of eight hundred millions or more, and *the* man to whom a deed refers; and they see, too, how unjust it would be, to decide that property, vested in trust, for the sole use of *the* man named, is rightly enjoyed, if *any* man, let him be *but a man*, has it; although his use of it, be the utter exclusion of *the* man named. His Honour's later statement was this: "The words of the deed of endowment are precise. They involve all that is *essential* for the faith and maintenance of *a* Particular Baptist congregation, but *nothing further*." The words of the deed, the writer submits, not only involve, but *clearly express, much more than this*. The words are not "*a congregation*," but "*the congregation*;" "*the said congregation*;" the one which purchased the property, and put it in trust for its own "*place of public worship*," and for its own "*use and benefit*."

The words which his Honour read, and which he said were "*the whole* of the Trust of the Deed," were neither the only words which show the *will* of the founders, nor those which show it most fully. Those words state that the premises were "*intended...for the congregation of Particular Baptists within the said city of Norwich for the time being*." But other words a little before them, say that the premises were intended as a place of worship for *the said* congregation," which "paid" the purchase money; and other words, just after them, say, "that the money advanced and paid,..had been raised and paid by

the members of the said congregation," the one then existing in the city of Norwich. "And to the intent that...the premises might at all times thereafter be kept and preserved for the use and benefit of the said congregation;" that is, of the then existing congregation which purchased them; and provision is then made that new trustees be appointed by the "men members of the said congregation for the time being."

His Honour's statement, therefore, that the words of the deed "involve nothing further" than what is essential for "a Particular Baptist congregation," is not correct; for they involve, and do so expressly, what was essential to this congregation; just as, supposing money to be left to a definite Wm. Jones, a claimant must show not merely that he is a Wm. Jones, but the Wm. Jones intended.

The trust, as Mr. John Evans said, in 1846, (see p. 11, preceding) was made for "a specific existing church," and "the actual church must retain its identity in all essential particulars." If, therefore, "the church" for which the chapel was intended, held baptism to be essential to communion; then, as all admit, the trust cannot be, according to the doctrine of Chancery, diverted from that purpose; and it matters not whether other churches, and among them those which were mixed in communion, were called Particular Baptist churches, or not.

It is singular that the ground of objection should relate to a point so simple, as the difference between "*a*" and "*the*;" and should require no more than assent to what seems self-evident; namely, that if an estate be left to one certain man or body, the claimant must prove not only the same name, but that he or it is the same man or body there mentioned.

2ndly. The next question is: Are the words—"The said congregation of Particular Baptists in the city of Norwich for the time being" of doubtful meaning, either in themselves, or as to the question of communion? In themselves, they are, as his Honour says, "precise," and even more so than he states; they expressly and with precision say that *this church*, as it then existed, was the object of the trust. But though precise in themselves, they leave to be ascertained what were the essentials of the faith, constitution, and worship, of *this church*. At the least, those essentials include whatever was needful in order to claim the name of a "Congregation of Particular Baptists;" but whatever there might be above and beyond this, which it esteemed essential, that, too, was as much a part of its essentials, and as needful to its identity, as, those which it had in common with all Particular Baptist churches. For it could not without them be "*the said congregation*."

The words "*for the time being*," could not be meant to give leave to alter what, by this church, was deemed essential, and not to be altered; for that would be leave to destroy all essentials, and the church itself; they must have referred, as in other Deeds, to this; that though principles must not change, the persons, composing the church, might and would. Those words permitted the kind of change, and no more, which, from time to time, would arise from holding and following what the church, at the time of the deed, held to be essential to itself.

The question, whether its fundamental rules permitted mixed communion, depends upon what they really were, and this must be shown by evidence. Sufficient proof to decide this point, might perhaps arise from inquiring, whether, then, any church was deemed a "congregation of Particular Baptists" if it practised mixed communion; for if not, *this church* could not have given itself that name, without *ipso facto*, forbidding mixed communion. But if it be proved that churches, whether they were mixed or strict in communion, were alike called by that name, then the words of the deed compel and require further proof, as to whether *this church*, (for which, and which only, the trust was intended) practised strict or mixed communion, and whether it held such practice to be an essential part of its practice or not.

His Honour's own view of the "doctrine" of Chancery leads to this result. He denied that the usage of *this church* could forbid mixed communion, if its

strict practice was one "*not involving fundamental points of faith,\* and not prescribed by the deed of endowment ;*" but he does not deny that if it is *prescribed* directly or indirectly by the deed, and was *fundamental* to the practice of this church, that then it must not be altered.

3rdly. If the church was strict, there is left a third inquiry ; it is this :—

Can proof be given that strict communion was deemed by *this* church, an *essential* part of its *practice*, or essential in order to maintain its *faith*. For if proof be given of this, then, since its practice and faith were the fundamental parts of the church, strict communion was *prescribed* by the words of the deed which devoted the property to "*the said*" church.

As to *actual practice*, his Honour decided, that "*this congregation has adopted the practice of strict communion from its first institution, until within a very short period of the present time.*" That is, he decided that the prior immersion of all who commune, was made by *the church* which founded this trust, an *indispensable* and *essential part of its worship*. Yet, nevertheless, his Honour, in effect, held that, "having regard to the terms of the deed," it is clear that it did not *intend* mixed communion to be "*interdicted in the practice of its members,*"—did not intend when putting the chapel in trust as a place for its *own* worship, and that *only*, to *forbid the violation* of what was *essential to that worship* :—did not intend, to forbid the adherents of *opposite* worship, to *excep*l in part from use of that chapel, *those who adhered to that worship*. That his Honour could reconcile these two decisions,—the one that the church was strict ; the other that it meant to permit the violation of strict communion, and the injury of its adherents, when putting a chapel in trust for its *own* worship, is surprising. To reconcile them *seems* impossible. Lord Lyndhurst decided Lady Hewley's case, on the ground that it was "almost impossible" that she should "found a charity for the purpose of preaching doctrines *directly at variance with her own,*" and that on a point "*considered essential.*" But his Honour's decision is, in effect, that much more than this was possible :—that the founders of this trust might not merely find it to aid in upholding a system of worship "*at variance*" with their own, in a point deemed by them "*essential*" to that worship, but also, whilst declaring the chapel to be for their *own* worship, which they say in their articles, *must not be altered*, might intend, notwithstanding, that they themselves, or others who adhered to that worship, should, at the pleasure of those who dared to alter it, be deprived of a part or the whole of *their own use* of that chapel. White and black are not more opposite than the intention that that chapel should be used for their *own worship only*, and the intention that it should be used for the *violation* of it.

The solution of this contradictory decision seems to be this : that the Judgment is based upon a wrong assumption. It assumes that the words of the deed prescribe *nothing more* than is *common to all* particular Baptists, and his Honour imagining that he finds proof that a church might practice free communion and yet be a congregation of Particular Baptists, decides, accordingly, that those who deem free communion to be essential to true worship, and who think strict communion a sin, are a congregation of Particular Baptists, and therefore have power to enjoy this trust, although it is expressly stated to be for the worship of those, who, his Honour decides, held sentiments the *reverse*. It is one out of many examples of the strange results to which false premises may lead. It is well, when what appears to be clearly a false conclusion, can be traced to its source. This makes what is clear in itself, doubly clear. In a case of such great importance there is reason for profound regret that the contradiction involved in his conclusions, did not lead the learned Judge to doubt the premises on which one of them was based.

The Defendants, by Sir Hugh Cairns, stated to his Honour that Strict

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\* His Honour, no doubt, included in *his* sense of faith, not merely abstract doctrines, but conscientious convictions of what was right in practice : for the one may be deemed as "*fundamental*" as the other.

Baptists have ever held that strict communion is "made *incumbent* by the will of God," that it is "not left open to the pleasure of men;" and that in their view those who practise free communion "*violate the laws of God*, (and) every consideration...of *orderly church-government*." There was, also, abundant evidence given by the Plaintiffs that all Strict Baptists deem strict communion an *essential* part of Divine worship, and that they themselves are *excluded from communion* by the admission to it of the unbaptized. Proof was given from the articles and records of this church, that baptism was deemed by it essential to membership, and the Lord's Supper to be exclusively a church-ordinance,—"an ordinance delivered to the church," and to be observed *in it*; that it deemed a defence of infant baptism, and the maintenance of general redemption, to be alike grounds for exclusion; that it required agreement with itself in "doctrine, worship, and discipline," as terms of communion; and that whatever it held to be God's will, it held also to be sacred and *unalterable*, saying, "we may not *alter anything*;" and, therefore, there can be no doubt or question, and his Honour admits it, that this church did hold both baptism and particular redemption to be *essential* to communion.

Taking the true wording of the deed, therefore,—taking as the basis of decision its own declaration that the chapel was intended for "*the said*" congregation, which held immersion and particular redemption to be essential to communion, then, according to his Honour's own view of "the doctrine" of Chancery, the opinion of the present Attorney-General, Sir Richard Bethell, given in 1847 (see p. 11, preceding) is the true one: it was this,—that the chapel "was intended for the benefit of persons holding the principles of *strict* communion; and, upon the authority of Lady Hewley's case, the benefaction *cannot be diverted from its original purpose*."

With proof so decisive that the strict practice of *this* church was held to be an *essential part of its worship*, there was no absolute need for the Plaintiffs to seek *further proof* from the use, in 1746, of the expression, "Congregation of Particular Baptists." After having proved what are the peculiarities of Mount Sinai, a writer needs not prove that some rising ground which is not even a *mountain*, cannot be Mount Sinai. Yet if it be maintained that such rising ground is a mountain, and may be Mount Sinai, it strengthens the proof to show that it is not even a mountain. So it strengthened the argument from the *records and practice of this church*, if it could be shown that a mixed church was not, in the strict sense, even a congregation of Particular Baptists. It was shown that mixed communion, as pleaded for and practised then, extended to mixed *membership*, so that this modern custom of mixed-communion in the Lord's Supper *only*, joined with strict communion as to full membership, could not then be had in view by the founders of this trust. The question as to that time, is whether *mixed membership* churches were called "Congregations of Particular Baptists;" and, as the Lord's Supper was held by all to be a privilege of church members, it must be inferred that if mixed membership was deemed inconsistent with a title to be called a "Congregation of Particular Baptists," a mixed Lord's table would, in its measure, be esteemed so too.

It was shown that Mr. Bunyan and Mr. Brown about a century apart, renounced the names of "Anabaptist," and of "Baptized Churches" as factious or sectarian; that writers of note, Mr. Grantham, Dr. Wall, Dr. Gale, Mr. Neal, and Mr. Crosby, spoke of the churches called Anabaptist, Baptist, Baptized, or Antipædobaptist, as all limiting church-fellowship to Baptists. It was shown that the London Confession of 1646 and following years, declared that baptism was essential to *membership*, and that the Lord's Supper is to come "*after*" baptism; also that one of the pastors said of these churches that they communed in it with none but the baptized; also that the Confession adopted in 1677, and again in 1689, affirmed that of 1646; and that the Baptist Catechism declared that the proper subjects of the Lord's Supper are those who have been baptized. This was strong presumptive proof that this church must have supposed when using the term "Congregation of Particular Baptists," in

its trust-deed, that that name would, of itself, exclude the practice of *mixed* membership, and would exclude, as a part of that practice, mixed communion at the Lord's table. Sir Hugh Cairns himself admitted, when speaking of Mr. Bunyan's church, that a mixed church is not, "in the strict sense of the term," a Baptist church.

But though the distinctive use of the name "Congregation of Particular Baptists," to denote churches limiting communion to Baptists, strengthened the argument of the plaintiffs: the disproof of that distinctive use, could not have proved the case of the defendants; because proof that both strict and mixed churches were called by that name, would merely prove that the name was *common* to both as the members of a *class*, it could not prove what was the *practice* or *intention* of *this church* as an individual of that class, in a point of *essential difference* between it and other members of the class; and it was *by* this, and *for* this, individual member of the class, as *distinguished* from all others, that the trust was founded. Suppose, for instance, that a gift is made by deed to a *certain* person of the name A. B., and that a claim is made by a person who does not in reality bear that name. The want of that name is sufficient to disprove his claim. But if a person *has* that name, this would not prove that he was *the intended* man; because he might have the same *name*, and yet not be the intended *individual* of that name. So a free communion church might be a Particular Baptist church, and yet not be *essentially* the same church which was mentioned. Can any intelligent person, much less his Honour, entertain a doubt of this? Could he say that, as to *grammar*, there is *no* difference between the indefinite article "a," and the definite article "the;" between his own expression, "a Particular Baptist congregation," and that of the deed—"the said congregation," which *purchased* the premises? Could he say, as to *logic*, that nothing can be *essential* to *one individual* of a class, beyond what is *common* to *all* individuals of that class? That nothing is peculiar, for instance, to Mount *Ætna*, the *burning* mountain of *Sicily*, beyond what is *essential* to every mountain? To suppose that his Honour would assert this, is impossible, it would be to expose himself to universal ridicule.

His Honour must, therefore, perforce admit, that he is *wrong* in *assuming* that he has to examine "nothing further" than the "*essentials*" common to the class, and has not to examine the *essentials peculiar* to this *individual*, as *distinct* from other individuals of the class. He cannot but admit Archbishop Whately's statement, in his *Logic*, p. 50, that "the notion expressed by a *common term* is merely an *inadequate*, or *incomplete* notion of an individual;" that "if I omit the mention and the consideration of every circumstance which *distinguishes* *Ætna* from any other mountain, I form a notion which *inadequately* designates *Ætna*;" a notion which "does not *imply* any of its *peculiarities*." His Honour could not prove what are the *complete essentials* of that *burning* mountain of *Sicily*, by merely proving what was *essential* to make any rising ground a mountain. In this Cause, however, his Honour does not get so far as proving a certain hill to be a mountain; not so far as proving that the alleged hill existed: that is, he neither proves that a church *practising* *free communion* in the *Lord's Supper only*, was then called "a Particular Baptist church," nor that such a church existed. Even Mr. Gould in his Introduction to his Edition of the Case, says that he is "now convinced" that the practice of admitting all believers "to the table, in distinction from admitting them into the membership of a church, is of more recent origin" than "open membership."

But his Honour does not prove that even *mixed-membership* churches were then called Particular Baptist churches. He says that he could not discover in the *Confessions* referred to, an assertion that "the communion *ought never* to be administered to any one who has not been baptized;" a remark which is like the argument that infant baptism is *not prohibited* in Scripture. For the *Confessions*, in stating what *is* God's will, declared all deviations from it to be

forbidden. His Honour said that the words: "disciples *ought after* [baptism], to partake of the Lord's Supper," did "not include the assertion of the principle contended for by...the plaintiffs," meaning, apparently, the principle that the unbaptized ought not to commune; but undoubtedly these words did include it; for the Confession denied the lawfulness of anything "not commanded;" and, *in practice*, the churches did not, Mr. Cox says, admit any to the Supper who were not baptized.

His Honour next said that there were *individual* Particular Baptists, such as Jessey, Tombes, and Bunyan, who "did not hold this [that is, strict communion] to be an essential and fundamental doctrine of their faith," a remark which did not even touch the question, What was a "*congregation* of Particular Baptists," and his Honour did not attempt to show that the *church* of England of which Tombes was a member, was called "a congregation of Particular Baptists," nor that those of Jessey and Bunyan were so. He then said that Mr. Kiffin overstepped the limit of "Christian charity," and "exhibited a *strong contrast* to Bunyan," (a remark which, judging from the writings of the men, may perhaps with reason be thought partial;) but his Honour said that, notwithstanding Mr. Kiffin's zeal, he and other Strict Baptist ministers "took no steps to exclude from their communion persons like John Bunyan." His Honour adduced no proof of this, but if he had done so, the point before him was the admission, not of baptized, but of *unbaptized* persons; and it is an undisputed fact, and one involved in their very sentiments as to communion, that these ministers and their churches *did* exclude the unbaptized from communion. All that his Honour attempted to infer from the sentiments of these individuals was, that a *person* (not a church) might be "a true and sincere Particular Baptist," that is, might be baptized and hold particular redemption *individually*, and yet hold free communion; a conclusion which proves nothing as to the composition of "a *congregation* of Particular Baptists." A horse is a horse, though in the midst of a flock of sheep, but "a flock of sheep" does not *mean* a body of horses, bullocks, sheep, &c., all mixed together.

His Honour next said, that he found that "in all essential and fundamental doctrines, all churches...of Particular Baptists concurred." If he meant in all things commonly deemed indispensable to *salvation*, they not only concurred among themselves but with Presbyterians and Independents also. But the question relates to the essentials of *scriptural church order*. As to these, they *did not all concur*; nor did a strict church, with a mixed church.

His Honour next remarked that "on matters not" essential, "no one congregation, [nor] even an assembly of congregations, considered itself at liberty to dictate to any other church." A fact admitted on both sides, and as to both essentials and non-essentials; and it is one which proves to demonstration, that it is unlawful to make a mixed church dictate to, and override the sentiments of, a strict church; as his Honour clearly does, if he destroys what was essential to a strict church, on the ground of what was practised in a mixed church. This is to make the mixed church a *judge*, in its own interests, of what a strict church ought to do; and to give it an authority, as destructive to the liberty of that strict church, as the authority of the Pope;—an authority to destroy its constitution and appropriate its property.

His Honour referred also to the Preliminaries of the Assembly of 1689, which declare that the assembly disclaimed "*all manner of superiority...and authority*," and also, "that wherein one church differs from another...in point of communion...we shall leave every church to *their own liberty*," &c. He referred to these as proof that "at least in all matters not being fundamental, it was part of the constitution and essence of each church...of Particular Baptists, that they might regulate their practice as they thought fit;" and said that the "inference is irresistible, that *as* the principle of mixed communion was not a fundamental point of faith,...each congregation was, from the earliest time, at liberty to regulate its practice either to strict or mixed communion." Was communion with *all believers* one of these points of difference? The



assembly merely declared the *entire independence of each church*,—its freedom from all control by the assembly; just as they might have declared it free from control by the Pope. This freedom extended to all things pertaining to the constitution of any and all of them, but the infringement of it was most to be feared in the cases in which they differed as to church order. Mixed membership churches are assumed and admitted to be, in general, *self-governed*; but their self-government does not prove them to be “Congregations of Particular Baptists.” His Honour’s argument, distinctly stated, is equivalent to this: all *self-governed* churches are Particular Baptist churches; a mixed church is a self-governed church; therefore it is a Particular Baptist church. But the first premiss is false; and therefore instead of drawing an *irresistible* conclusion from it, he can draw no conclusion from it at all. Every self-governed church is not a Particular Baptist church. The point at which his Honour aims,—that is, to prove that a mixed church was at that time *esteemed to be* “a congregation of Particular Baptists,” must be proved, if at all, by showing that it was *recognized* as such, or customarily *called by that name*. But his Honour had not one clear and indisputable example of this to produce. Neither Mr. Spilsbery’s church, nor the Broadmead church, had been *proved* to have been mixed, when recognized. But if Broadmead had been proved to be mixed in 1689, the mere circumstance that a church which was not wholly composed of baptized believers was, for general purposes *not affecting church communion*, placed, without a separate name, in a list of *congregations baptized*, could not have justified a decision that a mixed church was then held to be, in the strict sense of the term, “a Baptist church:” a decision which would be contrary to the defendants’ own *admission*.

But it must still be remembered that if his Honour had proved that a mixed church was then esteemed to be “a Particular Baptist church,” that proof would *not have justified* his Honour’s Judgment; because strict communion is admitted by him to have been the practice of “the said” church of the deed; and as that practice, in common with every other practice believed by it to be from God, was held by it to be unalterable, and necessary to its Divine constitution, therefore to alienate the use of the chapel in any degree from those who adhere to this practice, and give it to those who adhere to the opposite, is manifestly inequitable and unjust.

III. The Judgment is IN ERROR AS TO THE NATURE AND EXTENT OF THE INNOVATIONS, AND RELATES ONLY TO A PART OF THEM.” It limits the question to those unbaptized persons who “in *all other essential particulars*, whether in *faith*, or *doctrine*, or holiness...concur with those who are full members.” It takes no notice of the resolution to admit E. Bayes “as a *member*,” when unbaptized; nor of the proof it affords that the mixed communion of the defendants is not wholly *distinct* from the admission of the unbaptized to *membership*; nor is it clear that it permits *those unbaptized* persons to commune, who do not hold “the *faith* of Particular Baptists” even as to baptism itself.

Those who are actually admitted, are believers of *any kind*, including those who hold general redemption and other doctrines opposed to those of Particular Baptists. One effect of his Honour’s not having recognized this fact is, that his Judgment relates only to a part of the case, and might have been different had it embraced the whole. On the other hand, the Judgment, on account of not sanctioning the admission of any persons who do not “profess the *same doctrine*” as Particular Baptists, *does not give the scope needful for the consistent practice of free communion* even to the extent of the Lord’s Supper. Had his Honour sanctioned communion in it with those who do not profess the *same doctrine* as Particular Baptists, he, no doubt, foresaw that Socinians, Arians, and others, might be admitted; and possibly felt that *this* would certainly be contrary to the meaning of the deed. But the admission of even such persons to communion, would not be *more* contrary to the term “Particular,” than the admission of the unbaptized, is to the term “Baptist;” which terms are both used in the deed.

His Honour said, as to admission to *membership*, that that "breach of trust," if such, had not been "committed." But whether or not E. Bayes was actually received to full membership, the resolution respecting her, *required* her admission "as a member." And this, besides being a *fact*, and one which was before the Court, was important as proof that the defendants were *precluded* by their own resolution from pleading that their sentiments *did not go to the extent of mixed membership*.

IV. The Judgment is also IN ERROR AS TO THE EFFECT OF THE INNOVATIONS UPON THE RIGHTS AND INTERESTS OF THOSE WHO ADHERE TO THE FORMER PRACTICE OF THE CHURCH.

His Honour decided that the church was strict when the trust was founded. The founders of the trust, therefore, being strict, and also the church *for which* it was founded, the introduction of a change which would *deprive* those who adhere to its strict practice of *any former right*, is so evidently contrary to the *intention* of the founders and the *object* of the trust, that though his Honour decided that *the majority have power* to make mixed communion in the Lord's Supper their practice, and *at all times*, if they please, he deemed it "proper to observe" that the proposed *mode* of practising it was such as did "not interfere with the *convenience* or *religious observances* of those who insist on strict communion." His Honour had before him ample evidence to the contrary, but he seems to have followed too readily the statements made by the defendants and their counsel, on this point, without weighing carefully the facts and admissions which disproved them. The ground of his statement was merely this, that a *new* strict service *monthly* was offered to the members who adhered to the strict constitution of the church. If they declined to accept this, his Honour held that absentees *must be excluded* "in this case as well as in any other;" and yet held that the new practice does not interfere with their *religious observances*.

His Honour was under an entire misconception. Had the strict members accepted that service, they must have consented to the mockery of professing to govern a church *upon two principles*, the one true and the other false, at the same time:—they must, according to their strict principles, have consented to *cease from duty*,—the duty of *insisting* that the Lord's Supper should *not* be observed by the church *contrary* to the rules of strict communion:—they must have sanctioned, and even by means of the sacred supper, *double dealing and inconsistency*—the double dealing and inconsistency of those members who while they professed mixed communion to be their solemn duty, and strict communion to be a sin, proposed monthly to violate that duty and to commit that sin:—they must have owned the *usurped superiority* of some of the members, shown in excluding them from meetings, to *all* of which they had a perfectly equal right of admission:—they must have consented to receive the Lord's Supper *from one*, and *with others*, who *denounced them* in that service to be committing sin, the sin of schism:—they must have consented to *forbid admission to the church for the future of every new convert who held their strict sentiments*, for new converts were to be received only at the service on the *first Sunday* of the month, when free communion is practised:—and they must therefore have consented to the speedy and inevitable *reduction of the strict members to nothing*, or next to nothing, and to the probable *extinction* in a short time of all trace of their sentiments, in a church founded for the exercise and maintenance of them. Instead of not interfering, therefore, with the "religious observances" of these members, it involved the virtual *destruction* of them in that church; the degradation and extinction of the strict members themselves, and also a compromise of their principles, such as every conscientious mind must hate and shun.

The above remarks are sufficient to show that the Judgment is wholly and in every part unsound: that, as to facts, it is erroneous; as to *reasoning*, false in premiss, unfollowing in conclusion; as to *result*, opposed to the very intention of the founders: that, instead of being according to "*the doctrine*"

of Chancery, it is opposed to it ; instead of effecting the purpose for which Courts of Equity, so costly, exist, it effects the contrary ; that it makes them the strength of what is inequitable ; and that unless reversed, it will be a lasting discredit, both to them, and to England. It remains to notice—

V. THE EFFECT OF THE DEFENCE UPON THE JUDGMENT. Evidence given by affidavit, though it affords opportunity for clear and exact statement, affords also opportunity for laboured attempts to bewilder and mislead : and unless cross-examination takes place before *the Judge* who decides the case, the result may only add to his bewilderment.

The Defence is chiefly **FOUNDED UPON THREE FICTIONS** ; first, an assumed *distinction* between what constitutes a title to the *Lord's Supper*, and a title to *membership*, which the words and deeds of the majority prove they do not heartily believe in ; next, a declaration or implication that the strict members are not injured ; and thirdly, an assertion that every Particular Baptist church deems it lawful for a majority to alter its constitution.

THE DEPOSITIONS which support the Defence contain many things, which are either *contrary* to evidence, or have *no evidence* to rest on.

THE ARGUMENT of the Defence uses these depositions to prove, *not what the said* Particular Baptist church which purchased the premises held and practised, but what any church might practise and still be a Particular Baptist church of some kind ; and thus substituted what was *not*, for what *was*, THE QUESTION FOR DECISION. The errors of the Judgment were evidently suggested by these peculiarities of the Defence ; his Honour followed in the steps of Sir Hugh Cairns ; and the wrong, therefore, done by the Judgment, arises chiefly from the nature of the means used to obtain it, and the failure of the Court to judge correctly of the facts and evidence before it.

THE *first* of the above GROUNDS OF DEFENCE is of the gravest importance. It is, in brief, this : that the unbaptized, though received to the Lord's Supper, are *not received to full membership* : that the unbaptized *ought* to be received to the former, *ought not* to the latter ; and that the true definition of a church of Christ is, that it consists of *baptized believers*. The *right*, however, claimed for the majority, (said to hold such sentiments,) to alter the practice from strict to mixed communion in the *Supper*, is made to *rest* on their alleged *right*, if they thought fit, to make the same change in *membership* also ; because *mixed-membership* churches, it is said, were in 1746 called Particular Baptist churches ; and this, if true, is held to justify, *legally*, the admission of the unbaptized to the Supper, which is involved in mixed membership. But it cannot do so without justifying the further change to membership also. The effect of alleging that defendants, as a question of *fact*, feel bound to exclude the unbaptized from membership, was to prevent the Judgment from extending to that point, and by narrowing the question to the Supper, to give a better chance of defeating the Information, of retaining *possession* of the chapel, of *excluding* all conscientious Strict Baptists, and of saddling the plaintiffs with the *expenses* on both sides. But by resting the alleged *right* to open the table, on an alleged *right* to open the church membership also, defendants provided for themselves the opportunity, if the Judgment too should rest on this foundation, of saying, after they had obtained these temporary ends, "The Judgment involves our *right* to practice full membership, and *now* we are at *liberty* to do so. If, therefore, the alleged opposition of the defendants to full membership were not *genuine and true*, the reader must admit that the course is such as admits of no question, and of few parallels in Protestant annals.

Sir Hugh Cairns said, as one "representing substantially" the free communion majority of the church, "*We say that no person is or ought to be a member of this congregation, according to its present practice, unless*" baptized. "*The only thing we contend for is the right of the majority...to say that...believers...not baptized...may be invited...to the Lord's Supper.*" As to article 33 of the London Confession, which declares that Christ's "*church on earth* is a company of visible saints...being *baptized*," &c., he said, "*With the definition of*

a visible church *we entirely agree* ; but...it may be still within the competency of a particular congregation to invite into communion" the unbaptized : p. 107. Can words be more express ?

But *the conduct of the majority* for a long time, had proved that they as much admitted the *title* of the unbaptized to *membership* in Christ's "church on earth," as to the Lord's Supper ; and, more than this, that they rested the title of unbaptized believers to the Lord's Supper, on the very ground that they are either actually or virtually *church members*. Mr. Gould, on March 11, 1857, (p. 17, preceding), said, "baptism is not a church ordinance, whilst the Lord's Supper is. Baptism is obligatory on the *individual* believer, the Lord's Supper upon *the church* ;...upon the '*members*' of '*the body of Christ*' dwelling in any place ; and according to the New Testament constituting '*the church*' in that place...That which makes them *members* of that body, [Divine life], *determines* their duty ;" that is, to observe the Lord's Supper. Of Mr. Gould, therefore, Sir Hugh Cairns' statements were not true. Such of the majority as joined in the missionary communion in May 1857, (p. 19, preceding), joined with the members of Independent, Wesleyan, and other bodies, on the very ground of their being "*members* of Christian churches." The majority had also long recognized Independent, and other churches, consisting in part of unbaptized persons, as sister churches, and their members as *true church members* ; (p. 42, preceding). They passed a resolution *requiring* E. Bayes to be admitted "*as a member*" when unbaptized ; and, therefore, it is certain that if the majority had any principle at all, that *principle* admitted the *scriptural right and title* of the unbaptized to membership. Was this case, then, founded in this respect on a fiction or a fact ?

Having obtained a judgment of such kind as that plea was intended to obtain, what view do the defendants themselves take of the result ? It is thus stated by Mr. Gould, in his Introduction to "Open Communion," pp. cxli—cxliii. The *italics* are by the editor. "I wish to refer to a *remarkable fact* in the pleadings, which otherwise might escape the notice of the *general reader*. The *Defence which was set up*, and the *Judgment* which was pronounced, *rested upon documentary evidence of the practice of open membership in Particular Baptist churches*." He goes on to admit that all the churches which at first practised mixed communion at all, carried it to *membership*, and says, "I *rejoice* in the tendency of the churches in the *present day to return to the usage of their forefathers*, as being *most accordant with the teachings of the Holy Scriptures* ;" and then at the close of the paragraph adds, "This is the *liberty for which I have contended*—a liberty which may, in the course of years, introduce again into the church at St. Mary's the custom which we have now exploded, or *which may be used to give a new development to the church*, in harmony with the *Scriptural knowledge and convictions of its members*."

If indignation be ever virtuous and right, surely it must be right to feel it when reading the above lines ; and equally on reading the additional words from the same work : "The cordial goodwill of my flock, and their *hearty prayers*, have sustained me throughout my work." With the above facts in view, it seems incredible that the free-communion members, whom Mr. Gould calls his flock, could possibly *pray* for the success of an attempt to *persuade* the Court that their sentiments did *not* involve the right of the unbaptized to membership.

A-second FICTION was, that the strict members were NOT INJURED by the change, and were BOUND by the former rules of the church to acquiesce in it. Sir Hugh said, "We offer them the opportunity of having, to the *same extent that they ever had*, a strict-communion service : " p. 106. Also that "the *rules* of the church," that is, as they existed before the introduction of open communion into the church, required the exclusion of the strict members from membership, if they would not join in a *new service*, to the *neglect* of the old and regular service of the church, and to the future shutting out from church-membership of *every new convert* holding their own sentiments : p. 137. In short, he maintained the gross fallacy that the rules of a *Strict Baptist church required* the exclusion

of its own strict members, if they did not consent to the subversion of its own strict practice.

The third **FICTION** was one of equal boldness. Sir Hugh, though he admitted that the advocates of both strict and mixed communion held, respectively, that their systems are *the law of God*, yet, instructed by the Defendants, professed it to be *a fact*, that both parties had claimed for a *majority* the right to violate it; that both parties had held that it is within the power of a majority to decide whether what each holds to be God's will should be observed or not: pp. 105, 116. Upon the asserted prevalence of this ungodly maxim, that *man may break what God has bound*, was rested the plea, that this church, even supposing it to have been strict, meant to permit a majority to make it open; and that in devoting property to what *it deemed the worship ordained by God*, it thought it "perfectly immaterial" whether that worship were observed or not, and meant to concede to the majority a "*right to alter that practice*;" that is, a right to violate what, in its view, God had made inviolable. To aid this fiction there was still another. It was that this "is peculiarly the case;"—in other words, that there is a peculiar licence taken to alter God's will, in churches self-governed: as if to be *free* from men were to be *lawless* towards God; as if liberty of conscience were the loss of conscience; and as if to *obey God only*, were to be reckless whether he were obeyed or not.

2. The **DEPOSITIONS** on the part of Defendants contain so many groundless statements, that it was almost impossible to prevent the Court from being influenced by them. In Defendant Gould's first answer, for instance (pp. 53—67 preceding), there are many such statements as the following, all designed to serve the purpose he had in view. For instance, in ph. 15, he says that "in 1646 there were *in London above [or about] forty-six* congregations of Particular Baptists."\* In phs. 20, 23, 56, he has asserted that Mr. Spilsbery was a well-known advocate of open membership, and that his church practised it from its formation till 1652 or later; and Mr. Gould still asserts this, though unable to prove it, and notwithstanding evidence to the contrary. See pp. 54—110 preceding.† In ph. 22, he states that, in open-membership churches, "baptism

\* Mr. Gould has published a book entitled, "Open communion and the Baptists of Norwich—1860." The body of the work, extending to 324 pages, contains the speeches of Counsel at the hearing; the substance of which speeches fills, in this pamphlet, about 34 pages. His Introduction contains a review by himself of the whole case, and also some documents added as appendices. In his review, he endeavours to mend the evidence. At p. 114 of his Introduction, he gives Robert Baillie, of Scotland, as his authority for the above statement, and says that he has "nothing to do but to moderate between Baillie and Mr. Norton," the latter being "a disputant of two centuries later;" thus implying that his own statement is the *same* as that of Baillie, although it *asserts* as fact, what Baillie did not *even conjecture* to be so. He also puts Mr. Norton *personally*, instead of Mr. Norton's *authorities*, in opposition to Baillie. Those authorities are noticed at pp. 84, 85, preceding. Dr. Featley, to whom Baillie referred as *his* authority, said that the Anabaptists of England boasted of forty-seven churches, but he spoke only of eight congregations, seven English and one French, as being "*in London*," in 1644. See "The Dippers Dipt," pp. x., and 177, 178. Baillie, speaking of forty-six churches, *con-*

*jectured* that they were "within and about London." He said, "*This sect was said to be grown into no less than forty-six churches, and that, as I take it, within and about London.*" He did not *know* whether they were all within and *about* London, or not. But Mr. Gould, instead of conjecturing, swears, that *about*, or, if the office copy be correct, *above* forty-six, were, not in and *round*, but "*in London.*" By admitting that Baillie is his authority, he confesses that he has made a solemn oath, conveying an impression which is unsupported by any evidence of the truth of what it affirms.

† At pp. 117—127 of his Introduction, Mr. Gould makes a new attempt to justify his statements as to Mr. Spilsbery and his church. He quotes Mr. Stovel, as saying in his Memorial, that this was a church "not at first excluding believers not baptized;" and remarks that "the *very tradition* of such a fact in the church has its historic value." But *tradition* is not *proof*. He admits that "the private records of the early history of this church are missing or lost" (p. 118); and that "we have no history of this congregation, *subsequently to its formation, during the pastorate of Mr. Spilsbery*" (p. 125). He admits also that he had not seen the work by

has been administered always by immersion only," and to those who "profess faith," although not only are *Pædobaptist members, in those churches*, at liberty to sprinkle their infants, but some of those churches—the one at Bedford, for instance—have had *pastors* who administer that rite. In the same ph., Mr. Gould alleges that these churches have "considered the practice of open membership or of open communion to be...*open to modification*." Mr. Gould's own counsel, however, felt it needful to admit that those churches held this practice to be made binding by God, and not open to modification by men: p. 113. In ph. 23, he says that an open membership congregation was, "about 1635, *formed* in London, under the ministry of Mr. Henry Jessey;" and, in ph. 38, says that this church was "*formed* by" Mr. Jessey "of the members" of the Independent church of which he had been pastor. He appeals to Crosby; but Crosby says, on the contrary, (i. 309—312), that Mr. Jessey did not become pastor of the "*Independent congregation*" till 1637, and that "in this vineyard" he laboured "unto the day of his death" [1663]; that he was not baptized till

Mr. Spilsbery, from which extracts are given in a note at p. 54 preceding. That work shews that Mr. Spilsbery regarded correct *views* of baptism as *essential* to church-membership, and *actual immersion* as having to precede visible church order. Mr. Gould quotes some passages from that work which he finds in a reply to it; but they prove nothing which justifies his assertion that the church was mixed. He also makes extracts from an ancient manuscript, which Mr. Crosby (I. 101) says was "said to be written by Mr. William Kiffin," and which Mr. Gould had lying before him. Under date of May, 1640, it states, he says, that Mr. Jessey's church divided, "just half being with Mr. P. Barebone, and the other half with Mr. H. Jessey;" and that Mr. Richard Blunt, one of those who "had sober conference about [baptism] in the church," was sent over to Holland to receive baptism, "*none* having then so practised in England to professed believers." Under date of 1641, the manuscript is said to state that "those persons that were persuaded baptism should be by dipping the body, had met in two companies, and did intend so to meet after this;" that "all these agreed to proceed alike together; and then manifesting (not by any formal words) a covenant,...these two companies did set apart one to baptize the rest, so it was solemnly performed by them." It states that Mr. Blunt baptized Mr. Blacklock, and these two the others. Then follow fifty-three names, among which, Mr. Gould says, "I find Richard Blunt and Mark Lukar." He says also that a paper found among Mr. Jessey's manuscripts, states that Richard Blunt and Marke Luker were among those dismissed, on Sept. 12, 1633, by the first Independent church, in order "that they might become an entire church...amongst themselves;" and that after the names of the persons dismissed, it is said, "Mr. Eaton, with some others, receiving a further baptism." By these two manuscripts, Mr. Gould says, "it is demonstrated that Spilsbury's church was originally an open-membership Baptist church." But, first, these manuscripts do not seem to agree.

For how could it be said that *none* had been baptized in 1640, if Mr. Eaton and other seceders from this first Independent church, had been baptized in 1633? And, if the manuscript ascribed to Mr. Kiffin means that Mr. Blunt did not leave the Independent church till 1640, how could he have left it in 1633? But even if it could be proved that the baptism of any of Mr. Spilsbery's members was *delayed* till the ordinance could be received by a kind of apostolic succession from Holland, this does not help the Defendants, for their view of mixed membership involves the reception of those who *reject* believers' baptism altogether. A little after 1641, there is decisive evidence that Mr. Spilsbery's church did not commune with the unbaptized; for, in the prefaces to the London Confession, in 1644 and 1646, it declared itself to be "in communion" with Mr. Kiffin's strict church, and to be "*one*" with it in "fellowship and communion." In the Confession itself, it defined a church to *consist* of "visible saints *baptized*;" and in the same year, Mr. Cox said of these seven London churches, including that of Mr. Spilsbery, "We do not communicate with any in the use of the Supper, but disciples baptized." In 1652, Mr. Spilsbery himself said, in the Epistle entitled "Heart Bleedings," that Scripture nowhere approves of any churches but those which are "baptized in his [Christ's] name." Yet, in the face of this evidence to the contrary, Mr. Gould still defends his assertion, that, at those times, Mr. Spilsbery's church practised open membership and open communion. He admits that the above language of Mr. Cox is "plain and conclusive as to *his own practice*," but says, "it does not compromise his brethren:" p. 133. Yet Mr. Cox was avowedly giving to persons in the country, "*a more full declaration of the faith and judgment of baptized believers*," as set forth in the Confession of seven churches in London; and being a well-informed witness, and one recognized by those churches to be faithful and true, his testimony, as to their practice, is unimpeachable and conclusive.

June, 1645, and "maintained the *same*" kind of "church communion" after his baptism as before it. Mr. Gould (in the Introduction to his "Open Communion," p. 135) merely attempts to shew that this Independent church, after Mr. Jessey became a Baptist, ranked "as a Baptist congregation." But what he had said about the *formation* of a new church is, to all appearance, wholly unsupported.\* In ph. 26, Mr. Gould said that the date at which Mr. Kiffin withdrew from Mr. Spilsbery's church was 1653, and that no church limited communion to Particular Baptists till that year; though the signature of Mr. Kiffin to the Confession of 1644, in connection with a different church, was sufficient to shew that the date of 1653 was incorrect.†

\* As proof that the church, after Mr. Jessey's baptism, ranked as a Baptist church, Mr. Gould says p. 135, "in 1651, Mr. Jessey had for his assistant or co-pastor, Henry Forty," who in that year, 1651, signed the London Confession of churches "called Anabaptists." Mr. G. refers to Ivimey II. 66, for proof that Mr. Forty was *then* Mr. Jessey's assistant or co-pastor. What Mr. Ivimey says is, that "Mr. Forty was pastor of a church in the West of England in 1656," and that "it is *probable* he had been before this *settled in London*, as his name appears to an edition of the Confession of the seven churches in 1651." Also, that "he was a member of Mr. Jessey's church" at some time, but does not say when. Mr. Crosby (III., 100) says it was after "Mr. Jessey died," that is, after 1663, that Mr. Forty was "a member of that congregation;" and Mr. Walter Wilson (I. 50), who corrects Crosby in one point, confirms him in this. Mr. Ivimey does, indeed, say that "*perhaps*" Mr. Forty assisted Mr. Jessey "*while* he was rector of St. George's parish," that is, before 1660. But the time when Mr. Forty was a member of the church seems to have been about ten years after Mr. Jessey's death, that is, in 1673 or 4. For Mr. Forty, after the Restoration in 1660, was for twelve years in Exeter jail. Mr. Ivimey says that he settled at Abingdon in 1675 (II. 66), and Mr. Crosby that, "when a difference arose in [Mr. Jessey's] church about mixed communion" (which, Mr. Gould says, arose "in 1673-4"), those who were against mixed communion "*fell in* with Mr. Forty, *then* a member of that congregation," and that "upon Mr. Forty's call to the church at Abingdon [1675], his people joined with Mr. Kiffin's congregation." Mr. Ivimey does not state, *as a fact*, that Mr. Forty was ever either an "assistant or co-pastor" of Mr. Jessey; and Mr. Jessey did *not* sign the Confession of 1651,—indeed could not have signed the 33rd article, declaring a church to consist of persons "baptized," without condemning himself. Mr. Gould, therefore, seems to have only added another to his former unfounded assertions. He speaks of the Hexham Records as containing evidence that Jessey's church was regarded as a Baptist church; but he gives no quotations. It is there called "*the church meeting in Swan-alley, Coleman-street, London.*" See pp. 345, 346, 349.

† Mr. Gould, in the Introduction above-named, p. 131, mentions two dates as given by Mr. Ivimey for the *supposed* time of Mr. Kiffin's withdrawal—1653, in his Life of Kiffin, p. 17; and 1640 in his History, II., 297. In vol. III, 312, is a third date, namely, 1638. Such variations are to be regretted, but, as Mr. Gould says (p. 97) that Mr. Ivimey's History abounds in "blunders and contradictions," he cannot plead dependence on him as a reason for adopting a date so manifestly wrong. Mr. Gould now says that "the original records of this [Mr. Kiffin's] church are lost," p. 131; that if Mr. Ivimey's statement means that Mr. Kiffin, in 1653, "for the *first* time organized a Baptist congregation, it is *certainly incorrect*, as the Confession of 1644 proves;" but he adds, "If it means that, in 1653, Kiffin organized a new congregation, *I think it may be true.*" But Mr. Ivimey says that Mr. K. both "left Mr. Spilsbery and became the pastor of a Baptist church" *then*; and therefore Mr. Ivimey could not refer to a second new church, for Mr. K. did not leave *Mr. Spilsbery's twice*. Mr. Gould says that "soon after 1640," as the date of these two events, is, "of course, incorrect, as Kiffin was not a Baptist at that date:" (note p. 131). But Mr. Kiffin's own testimony implies the contrary. In his work in defence of strict communion, "London, 1681" (see Ivimey III., 315—317), he said that, on coming to the conclusion that the "order laid down by Christ and his apostles, and practised by the primitive Christians in their times," was "that after conversion they were baptized, added to the church, and continued in...breaking of bread and in prayer," he felt himself "bound to be conformable" to it, and had "continued in the profession of the same for these forty years." By "these forty years," he evidently meant about that time; the expression would be correct if he had been a Baptist for rather more than that time. The above statement proves also that, so soon as he adopted Baptist *sentiments*, he was *baptized*, and at once *practised strict communion also*. The exact time when this occurred is proved by another statement, which also rested on the authority of Mr. Kiffin himself. Mr. Crosby, I. 149, gives the following "account collected from a manuscript of Mr. William Kiffin," omitted by Mr. G., p. 121: "*In the year 1638, Mr. William Kiffin, and Mr. Thomas Wilson and*

In ph. 31, Mr. Gould asserted, as a fact, that open communion in the Lord's Supper had "ALWAYS been considered," by those adopting it, to be "entirely *distinct* from the practice of open *membership*," and the fourteen witnesses before mentioned (Crisp, &c., ph. 8), supported his statement on oath (pp. 55, 93, preceding). Yet Mr. Gould now admits, in his Introduction, p. 142, that the reception of unbaptized "believers in Christ, to his *table*, in *distinction* from admitting them into the membership of a church" was *not* the "original practice." To say, as Mr. Gould says in ph. 35, and the said fourteen witnesses say in ph. 10, that the *question* of communion "has been an *open one*, expressly recognized as such, among Particular Baptists," is like saying that the question whether there is a God, is an *open one*, and has been recognized as such among mankind; because it has been discussed, and many fluctuations, to and from atheism, have occurred. The words "open question," denote that the *truth* of the proposition referred to is deemed, by all among whom it is said to be *open*, to be open to question or questionable. They do not convey the idea that *deep and decided convictions* of opposite kinds exist on the point. And therefore to say that those who believe most firmly that strict communion is God's will, have recognized the *question*, as to *whether it is so or not*, to be an *open one*, is like saying that they deem it an *open question* whether there is a

others, being of the *same judgment*," as to baptism, "were, upon their request, *dismissed* to the said Mr. Spilsbery's congregation." So that his own testimony implies that he was baptized in 1638, about forty-three years before 1681, and that Mr. Spilsbery's church, which he then joined, was a Strict Baptist church.

Mr. Gould says that Mr. Kiffin was not baptized till "after January, 1641-2," p. 129; and that he was still "a member of Mr. Jessey's church in the early part of the year 1644," p. 130. He states, that in a manuscript "account of divers conferences" on baptism, held in Mr. Jessey's church from January to March, 1643-4, Mr. Kiffin is mentioned as "one of those who were concerned." But Mr. Kiffin might be concerned in them merely as a friend and as a *former* member of the church. Mr. Crosby mentions Mr. Kiffin's share in these conferences (III.4), yet relies fully on the above statement, "collected from a manuscript of Mr. Kiffin," that he was dismissed from Mr. Jessey's church in 1638. There is also other evidence. Mr. Kiffin was one of "the *Anabaptists*" who, on "Oct. 17, 1642," held a debate on baptism with Dr. Fentley, and at that time spoke of himself as a preacher. He cannot be supposed, after his baptism, to have regarded his call to the ministry by Mr. Jessey's church (Crosby III. 3) as any longer valid; for he is said to have left Mr. Spilsbery's church on the ground that unbaptized persons ought not to preach. Yet at that debate in 1642, he is described by Dr. Fentley as saying, "I am more lawfully called to preach the word than you." "I am called by saints." "Christ gave the power of *ordaining* to his church." In an earlier part of the debate, he is said to have asked, "What is a true particular visible church?" and on Dr. Fentley's replying that it is one in which the sacraments are "lawfully and rightly administered," he is

said to have replied, Baptism "is not rightly administered in your church:" Dippers Dipt, pp. 1-19. This is strong *presumptive* evidence, at the least, that he had received a call to preach from a church in which baptism was, in his view, "rightly administered." Was this Mr. Spilsbery's church, or was it the new church of which he was pastor in 1644? There seems to be no reasonable doubt that it was the latter. Mr. Gould gives an extract from the manuscript account of the conferences in Mr. Jessey's church in 1643-4, which says that the "issue was, the conviction of sixteen members against *predobaptism*," and their withdrawal from the church, "as not satisfied we were baptized, or a *TRUE CHURCH*;" which fact strengthens the evidence that Mr. Kiffin, who took part in those conferences, did not then regard it as a "true church," and that he had received *ordination* by a Baptist church before "Oct. 17, 1642." There is also proof that, in 1643, he was already connected with the church with which he was connected in 1644. For, in his autobiography, after saying that, "in 1643," on recovering from a severe illness, he went into Holland, he adds, "But, coming home again, I was greatly pressed by the people with whom I was a member, to continue with them, which I did,... spending my time chiefly in studying the word of God, until I had spent the most part of what I had got," which was, he says, "at the end of the year 1645." It seems certain, therefore, that the new church was formed as early as 1643, and almost certain that he was the pastor of it in "Oct., 1642," and that it must have been formed between that date and 1638. Mr. Underhill's statement in a note to the Broadmead Records, p. 31, that it was formed "probably about 1640," as Mr. Ivimey says in vol. II. 297, is sustained by this evidence; and it appears that Mr. Gould, in endeavouring to excuse one inaccuracy, has added others.



God. To say that Paley deemed the being of a God an "*open question*," because he discussed the proofs of that being, would convey a meaning wholly untrue.

In ph. 44, Mr. Gould says that Robert Hall was a "*Particular Baptist*," and he still asserts it, although Mr. Hall said (see Mr. Norton's evidence, p. 81 preceding), that his *own* view—the view that "*Christ died for all men*," was the doctrine of "*general redemption*."\*

\* Mr. Gould, in his Introduction, p. 117, note \*, admits it to be "*the fact*," that Mr. Hall held the doctrine that Christ died for all men," but maintains that, because Mr. Hall held the doctrine of particular *election*, his view of the *death* of Christ was not the doctrine of *general redemption*. He says, "The doctrine of particular redemption, as held by Lamb, was defined as 'Christ's dying for all, and God's election of some.' That was the doctrine held by Mr. Hall." The Mr. Lamb referred to was Mr. Thomas Lamb, a popular Baptist preacher, from about 1642 or 3 to about 1672: (Crosby III. 54—56; Ivimey II. 386). He was pastor of a church of *General Baptists*, meeting in Bell-alley, Coleman-street, London. Of this there is the following proof. The church is mentioned more than once by T. Edwards, in his *Gangræna*, 1646. At p. 76, he says that Mr. Henry Denne was "made a member of Lamb's church, which meets in Bell-alley;" that he "was sent forth by Lamb's church... to preach *universal grace*;" that he sometimes preached in that church, and that his "usual theme" was "Christ's dying for all—for Judas as well as Peter." At p. 92, he says of the speakers in Lamb's church, "All of them preach *universal redemption*." Robert Baillie, of Glasgow, in 1646, as quoted by Mr. Gould (Intro. p. 116), says of the Baptists, "Whatever be the condition of the seven churches, certainly M[r.] Lamb's congregation, the greatest, as they say, and most fruitful of all their societies, without comparison, is pestered with this gangren [of Arminianism]; the great preachers in that flock, M[r.] Oats and M[r.] Den, make it their ordinary theme, that Christ died for all—for Judas as well as for Peter.... These men be the chief apostles and evangelists of the Anabaptistic churches," &c. Mr. Gould, after quoting these and other remarks, asks, "Was Lamb's congregation one of the seven churches which published this [the London] Confession? The language of Baillie points to that conclusion, and Ivimey adopts it.... II. 295, 386." Ivimey was clearly in error. By the words, "*their churches*," no doubt Baillie meant "the Anabaptistic churches" at large, and his words seem to distinguish Lamb's church *from* the seven churches, rather than to class it with them. Besides, he says that Mr. "Spilsbery writ against the tenets" of Lamb's church. Mr. Ivimey speaks of the charge of Arminianism made against Lamb as "satisfactorily refuted by the titles of some of his works preserved by Crosby:" Ivimey II. 388. Crosby mentions

but three. One of these, dated 1642, is entitled, "A treatise of Particular Predestination, wherein are answered three letters; the first tending to disprove particular predestination; the second to shew the contradiction betwixt Christ's dying for all and God's election of some," &c. Mr. Crosby says that, in two of these works Mr. Lamb "labours the same argument,... that is, the reconciling of *particular election* with *universal redemption*:" Crosby III. 56. This was also the view of Mr. H. Denne, above mentioned: see Crosby I. 305. So that Edwards, in 1646, and Crosby, in 1740, called the doctrine held by them, that Christ died for all men, "*UNIVERSAL REDEMPTION*," although it was held in connection with the doctrine of *election*.

It seems clear from the signatures to the London Confession, that Lamb's ch. was *not* one of the *seven*; for not one of the names of Lamb, Oats, or Denne, is in any of the editions of it. Besides this, Adam Taylor, the historian of the General Baptists, says (vol. I., p. 99, note), that Luke Howard was for a time a member of Mr. Lamb's church. and that in his "Looking-glass for the Baptists," published in 1672, Howard says that, in a great contest between the General and Particular Baptists in Kent, in 1644, Lamb and Barber were the *leaders of the General Baptists*. Mr. Adam Taylor, who wrote in 1818, said also (I. 99), "Several late authors have classed the congregation in Bell-alley among the Particular Baptist churches,... yet we, without hesitation, rank them among the General Baptists... With respect to Mr. H. Denne, we have the authority of his friends and disciples for ranking him among the General Baptists." Mr. Underhill, in his Introduction, p. x., to the Fenstanton Records said, in 1854, of Mr. H. Denne, "Such were the views of this worthy servant of Christ, and on which the *General Baptist churches of the midland counties were primarily founded*." It seems, therefore, that the views which Mr. Gould calls particular redemption, were the *very views* on which some, at least, of the leading churches of the General Baptists, were founded; and that the untruth of Mr. Gould's denial that this was *general redemption*, is exposed by the very reference he makes to Lamb in support of it. *Simply* because Mr. Norton had *quoted correctly* Mr. Hall's *truthful* statement, that this is the doctrine of *general redemption*, Mr. Gould says, "To seize upon that phrase to defame the illustrious dead, may accord with Mr. Norton's conceptions of accuracy of quo-

Though *no proof*, when asked for, could be given (see pp. 123, 124 preceding) that "*several*," (as Mr. Gould alleged in his Ans. I. ph. 82), or even *any* of the members of the Assembly of 1689 were from churches "practising open membership, with *all believers*, or open communion" limited to the Lord's Supper; and though proof *was* given by the Plaintiffs, that *other* differences as to communion *did* exist in the churches from which those who met came, yet the *unproved* statement of Mr. Gould seems to have produced more effect than the proved statements of the Plaintiffs; for His Honour took it for granted that the Assembly must have meant by the words, "wherein one church differs from another church...in point of communion," communion with *all believers at the Lord's table*; and he spoke of those words "as conclusive" proof that each "congregation of Particular Baptists might regulate their practice as they thought fit" on that point, and yet remain a Particular Baptist church still.\* The solemn declaration of Mr. Gould, of five trustees (p. 63 preceding), and of fourteen co-witnesses (ph. 19, p. 94), that *prayer, praise, and preaching*, as used in "*public worship*," were in 1689, and have generally been, by Particular

tation, but must excite the indignation of every honourable mind." There is, indeed, truth in his following statement, that "Unscrupulous partizanship," where it exists, "is never slow to torture the evidence at its command, and to cast its venom at reputations which it cannot hope to destroy." Intro. p. 96.

\* Mr. Gould, in his Introduction, shews more clearly than before, that neither he nor his friends can give *proof* that even one of the churches from which the members of that assembly came, was at that time open, either in membership, or at the Lord's table only. Neither Mr. Crisp, a minister of the Broadmead church, Bristol, nor Mr. Gotch, though both of them witnesses on Mr. Gould's behalf, give proof that Broadmead practised open membership in 1689. No one is justified in swearing that to be true, of which he knows nothing. Mr. Gould says, Intro. p. 106, as to "the practice of the congregations represented in the Assembly, I do not intend to enter upon that evidence in detail, but to refer to one celebrated instance—THE CHURCH AT BROADMEAD, BRISTOL."

And what *evidence* does he give as to this church? None whatever. He says, "Mr. Norton does not venture to assert that it practised strict communion until 1733; so that this church, *practising open membership* in 1689, becomes an unexceptionable witness," &c. Mr. Norton is wholly *ignorant* of its practice in 1689; *therefore*, says Mr. Gould, the church was *mixed*. He says also, p. 107, "Mr. Palmer honourably admits it to be so," and he refers to the place where Mr. Palmer says, "*If* the fact were that that church...did at that time [1689] practise the looser principle of communion." Mr. Gould, pp. 103—105, quotes what Mr. Norton said of this assembly, as editor of Dr. Howell's work on communion, in 1844. In one part of the passage quoted from p. 338, edn. I.; p. 260, edn. II., a misprint of "compatible," for "*incompatible*," had given a sense contrary to that which Mr. N. intended. In another part of it, Mr. N. said, "That none of the

churches" from which those who assembled in 1689 came, "received the unbaptized as *members*, is evident from the fact that they speak of themselves as being all '*baptized* churches; ...but that some of them were favourable to the admission of the unbaptized to the Lord's Supper, appears from the following minute"—the second preliminary rule, as to differences "in point of communion." Mr. Norton was not then aware that *ALL* the open churches of that period seem to have practised open *membership*, and he did not notice the fact that *other* differences as to communion did actually exist. On the ground of that rule, and that only, he said, too unguardedly, "This assembly, therefore, must be considered as having, for the *first time*, recognized the custom of admitting the unbaptized to the LORD'S SUPPER as an *allowed practice* among the accredited churches of the Particular Baptist body." But what can be thought of Mr. Gould, who while himself admitting that open communion, *limited* to the Lord's Supper, is of comparatively "*RECENT* origin," can quote Mr. Norton's former mistake on the point, as proof of the existence, in 1689, of a practice which *both* now state to be of "more recent origin:" p. 142.

Mr. Gould refers, at p. 108, to the church at STEVENTON, Bedfordshire, as one which sent members to the Assembly of 1689, and, instead of giving *proof* that it was a mixed church *then*, quotes Mr. Norton as saying (Howell, p. 267), upon the authority of Mr. Ivimey, II., 53—55, that "Steventon was *early formed*...on the same principle" as the church at Bedford. But what was it in 1689? Mr. Norton sees nothing in Mr. Gould's Introduction, more than in his affidavits, to enable Mr. G. to say, as he does, at p. 105, "The reader, in *this Introduction*, has evidence that congregations practising *open membership* were recognized, both *before* and at the Assembly of 1689, as Particular Baptist churches."

Baptists, considered to be entitled to be called *church acts in every sense* in which the communion of the Lord's Supper is so, could not convey to His Honour a true impression; nor could the declaration of the same phs., that "the term 'strict communion' has *always*, at least since...1689, been considered by Particular Baptists to relate *exclusively* to admission to the *Lord's Supper*."

This was the *kind of evidence* put in by the Defendants. Their papers are full of such statements. It is needless to mention others, except on the subject of redemption. The words of the trust-deed made it needful for the Plaintiffs to shew that "Particular Baptists" were so called because they held the doctrine of particular redemption, and also to shew what the doctrine "then was." The words "or limited," were used, from the first, in the Information and Bill, ph. 3, to explain to the Court that "Particular" denoted a *limited*, as opposed to a *general* redemption; and the words of the Bill, describing that doctrine to be that "Christ, by his *death*, did *purchase* salvation for the *elect*," were taken from the London Confession of 1646, article 21 (see p. 51 preceding). Mr. Gould, in his first answer, ph. 11, *confirmed* these statements. He said that "the name Particular Baptists was derived from the doctrine called particular or limited redemption;...to the effect that...Christ, by his...*sacrifice* of himself, *purchased* salvation for all...the elect." He followed, in this statement, the sense, and in part the words, of the Confession of 1677—1689, chapter 8, section 5 (see p. 53 preceding). In ph. 101 of the same answer, he again admitted that "particular or limited redemption...*then was*" precisely what the Bill described it to be, and admitted that this "appears," or is proved, by the London Confession, and "better" by that of 1677—1689 (p. 61 preceding). But some sense of danger seems to have occurred, and Mr. Gould, in his third answer, made assertions, page after page, at variance with the statements of his first answer. Yet he begins this third answer by *confirming* his first, and saying that terms in this are used in the *senses* in which they are used in the first. He does this at the very moment when he is going to give to the term particular redemption a *new sense*. There, its meaning is said to be that Christ's death *purchased* salvation for the *elect*; here its meaning is said to be that Christ "made atonement for the *sins of the whole world*;" and that, not atonement itself, but the *application* of atonement is redemption (Ans. III., ph. 7). There, both the London Confession and that of 1677—1689, are said to have taught the former doctrine; here they are said to have taught the latter (Ans. III., phs. 19, 23). Here, in ph. 22, Mr. Benjamin Cox, in the face of his own statement that "only" Christ's sheep "have their sins washed away in [his] blood" (Appendix, sec. 5), is said to confirm Mr. Gould's words, in his third answer, touching the London Confession. Even Dr. Owen is said or implied to have held the doctrine of the third answer, although he *opposed* it as wholly untrue (Ans. III., ph. 42). Mr. Kinghorn is treated in like manner, and on the summit of this mountain of truth or untruth (which it is, the reader will judge) is placed the bold statement that it was particular redemption which Mr. Gadsby and Mr. Stevens referred to, when they spoke of *Arminianism*.

But more suprising still, than even these statements, is the fact that *fourteen other witnesses*, most of them men well-informed, and men of note and high station, should bind themselves by an oath, and agree to assert that the substance of what Mr. Gould says on this point, in his third answer, is true:—that it is a fact that a "majority of particular Baptists has *HITHERTO*" held "the doctrine of particular redemption, *as defined*" by Mr. Gould in *this last answer*; in other words, that what Mr. Gould defines to be particular redemption, has *really* been always esteemed to be so by a majority of Particular Baptists:—that the view that Christ "*made atonement for the sins of the whole world*," and that this atonement "*is applied by way of redemption to the*" *elect*, has been, from 1633 "*HITHERTO*," by at least a majority of those who have been at any time called Particular Baptists, held to be particular redemption (Affidavit, phs. 21, 22).\*

\* The word "limited," which was from the *first* in the Bill, gave no occasion what-

ever for Mr. Gould's third answer. That Answer, though it makes *atonement* general,

Such statements, it may be thought, instead of misleading the Judge, would make him distrust whatever was said by those who made them. They might have done so, indeed, if the truth on all points had been clear; but to make it so, was next to impossible, on account of the number of such statements. And if Christian profession, combined with office, diploma, name, or fame, was assumed to make it impossible that an oath had been taken on statements unsupported by fact, the reader can see what would be the result of such depositions as these.

3. The Defendants' counsel, in their ARGUMENT, used these depositions (the errors of which were, most of them, fitted for such use), to shew that to hold communion with those who were not Particular Baptists, was a thing not "*impossible for a Particular Baptist congregation to do*" (p. 106 preceding, c. 2, top); although the true question was, What were the essentials of the faith, the worship, and the order of this church? The correspondence, both as to reasoning, and as to the question assumed to be the one at issue, between the Judgment and the Defence, shews how much the evidence of the Defendants had to do with this result.

VI. OF THE EVIDENCE OF THE PLAINTIFFS, on the other hand, the JUDGMENT took little notice, although its testimony was unshaken (see p. 124, preceding). The proof which it gave, for instance, that in and before 1746, the churches called Particular Baptist were spoken of as distinguished by communicating solely with Baptists, was not even noticed; and though His Honour admitted the proof that, in *this* church, baptism was really *essential* to communion, he destroyed its influence by declining to make the practice of this church—the very and only church for which the trust was founded, a *ground at all* for deciding what was intended to be practised there.

VII. The Costs. Mr. Lindley seemed to imply that the Trustees of the chapel had funds at their disposal. They have none. Mr. Gooderson paid, it is said, his own costs just before he died. Both the Defendants and the Plaintiffs were made, by the Judgment, each liable for the whole of their *own* expenses. Those of the Plaintiffs are said to be light when compared with those of the Defendants. The Plaintiffs sincerely thank their friends for having so nobly contributed means for the discharge of their obligations.

VIII. RESULT OF THE JUDGMENT. About forty members have been excluded. Mr. Gould says (Intro. p. 88), that the church, on July 15, 1860, "resolved unanimously" "that while this church holds it as a *fundamental principle* that members *withdrawing themselves*" (the italics are by the editor) "from its fellowship, *in breaking of bread* and in prayers, terminate their membership by *their own act*, it is nevertheless desirous of affording to them every reasonable opportunity of reconsidering their conduct, before it proceeds to seal *their act* upon them; and, therefore, in the case of the absentees from public worship and *communion at the Lord's table*, reported...Ap. 26, 1858,... it requests brethren James King" and others "to continue their labours, and report." Mr. Gould also says that on July 30, 1860, "the deputation reported ...that forty-one persons [had] notified their intention not to return to the fellowship of the church;" that "four of that number attended the church-meeting, and two of them addressed the church;" and that on the motion of Mr. Tillyard and Mr. Newbegin, it was "carried unanimously 'that this church,...having learnt that [the forty-one] do not intend to return to its fellowship, declares their membership to be terminated *by their own act*.'"

*Sutton, Surrey, Nov. 9th, 1860.*

says that atonement for all is "applied, by way of *redemption*," to the *elect*, and this leaves *redemption*. even as Mr. Gould there defines it, limited still. Mr. Gould's remarks are founded on a *new* expression—"limited

*atonement*," introduced by himself into his third answer, and treated there in the same manner as if it had been used in the Bill. (See p. 69 preceding, ph. 4).

## Abbreviations used in this Work.

**AFFT.**, affidavit. **Ans.**, answer. **Appx.**, appendix. **Art.**, article. **Asson.**, association. **Bk.**, book. **Bpt.**, Baptist. **Cfsu.**, Confession. **Cgn.**, congregation. **Chap.**, chapter. **Ch.**, church. **Cmn.**, communion. **Col.**, column. **Cs.-exn.**, cross-examination. **Deft.**, defendant. **Ed.**, editor. **Edn.**, or ed., edition. **Exbt.**, exhibit, *i. e.*, book or paper exhibited in this suit. **Gl.**, general. **Govt.**, government. **Kn.**, Kinghorn. **L.**, line. **Ld.**, learned. **L's Spr.**, Lord's Supper. **Min.**, minute. **P.**, page. **Ph.**, paragraph. **Pltf.**, plaintiff. **Pr.**, particular. **Redn.**, or **rdpn.**, redemption. **Ref.**, references. **Res.**, resolution. **Sec.**, section.

**AT PAGES 61—68**, **G.**, **F.**, **A.**, **Gn.**, denote Gould, Five united defts., Allen, Gooderson.

**IN THE FOLLOWING INDEX**, for greater brevity, **o.** denotes open; **s.**, strict; **c.**, communion; **m.**, membership; **mbrs.**, members; **mxld.**, mixed; **P. B.**, Particular Baptist. The capitals standing before the *figures* denote—**B.**, Brock; **G.**, Gould; **N.**, Norton; **P.**, Palmer; **R.**, Russell; **C.**, Cairns; **M.**, Master of the Rolls; showing that the figures following, to the next semicolon refer to remarks by them respectively.

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